

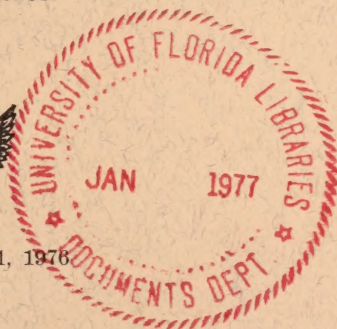
HISTORY OF CIVIL SERVICE MERIT  
SYSTEMS OF THE UNITED STATES AND  
SELECTED FOREIGN COUNTRIES

Together With  
EXECUTIVE REORGANIZATION STUDIES AND  
PERSONNEL RECOMMENDATIONS

COMPILED BY  
THE LIBRARY OF CONGRESS  
CONGRESSIONAL RESEARCH SERVICE  
FOR THE  
SUBCOMMITTEE ON MANPOWER AND  
CIVIL SERVICE  
OF THE  
COMMITTEE ON POST OFFICE AND  
CIVIL SERVICE  
HOUSE OF REPRESENTATIVES  
NINETY-FOURTH CONGRESS  
SECOND SESSION



DECEMBER 31, 1976







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SECOND SESSION



DECEMBER 31, 1976

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## INTRODUCTION

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The Congressional Research Service of the Library of Congress was requested by the Honorable David N. Henderson, chairman of the Subcommittee on Manpower and Civil Service, to conduct a study on the origin of the Federal civil service system, and to compare the Federal system with merit systems of other countries. The study was to include a brief survey of major executive reorganizations of the Federal Government and their effect on personnel matters.

This committee print contains the four-part report submitted to the subcommittee by the Congressional Research Service of the Library of Congress.

Part I, Merit Principles and the Federal Civil Service, 1789-1969, is a historical study of the evolution of the present civil service system, and was prepared by Virginia McMurtry. It is a careful and comprehensive tracing of events leading up to the development of the Civil Service Commission as it exists today. It supplies useful data to determine whether the original goals of the Civil Service Commission are currently being fulfilled. It is perhaps the most definitive work of its kind.

Part II, Statistical Survey on the Extension of the Competitive Civil Service Merit System, 1884-1975, was prepared by James McGrath, and parallels part I with a statistical analysis of the growth of the Federal service since the passage in 1883 of the Pendleton Act, which created the Civil Service Commission. The data in part II also illustrates the change in the percentage of numbers of positions in the competitive career system.

Part III, Selected Foreign Civil Service Systems, was prepared by the Foreign Affairs and National Defense Division of the Library of Congress. Comparisons were made with the systems of five different countries. The systems of Great Britain, Canada, Italy, France and West Germany were prepared by Edward T. Lampson, Pauline Mian, Carlo La Porta, and Francis Miko, respectively. The report gives a glimpse at the structure of these systems, the role of merit within each, the status civil servants hold in their particular societies, and a sketch of the different systems of compensation.

Part IV, Survey of Executive Reorganizations and Personnel Recommendations, includes a historical view of the Federal reorganization plans beginning in the early 1900's. The survey was prepared by Gary L. Galemory, Analyst in American National Government, Government Division, Library of Congress.

This report will be useful in understanding the Federal civil service structure. The various perspectives provided in this study hopefully will illuminate the problems in the Federal civil service and lead to corrective legislation which will provide a stronger and more useful Federal civil service merit system.





## PART I.—MERIT PRINCIPLES AND THE FEDERAL CIVIL SERVICE:\* 1789 TO THE PRESENT

### CHAPTER 1.—MERIT SYSTEM IN PERSPECTIVE

In 1792, by which time the new civil service under the Constitution was in full working order, there were about 780 employees—excluding the deputy postmasters—on the Federal payroll;<sup>1</sup> in 1976 there were over 2.8 million Federal civilian employees.<sup>2</sup> Accompanying this numerical expansion of the public work force over the years, there has been another dimension of growth in the Federal civil service—the development of the merit system.<sup>3</sup> In 1883, with the passage of the Pendleton Act, some 13,900 employees, or about 10.5 percent of the Federal civilian work force, were initially placed in the classified service and subject to the merit principles. By the mid-1970's, more than 90 percent of Federal civilian employees were under some form of merit system.<sup>4</sup>

The subject of this study is the expansion of the merit system in the Federal service. The purpose of the report is twofold. One goal is descriptive—to provide a narrative of the historical evolution of the merit system in American public administration, tracing the introduction and gradual acceptance of the merit principles and the respective roles of the various Presidents, and the Congress in this process, as well as other significant factors such as the National Civil Service Reform League and the Civil Service Commission itself. The second objective is analytical—an examination of the state of the Federal civil service over time in light of the American constitutional framework, changing political configurations, executive-legislative branch interactions and conflicts, and underlying trends and themes throughout the historical periods.

In this introductory chapter we consider two preliminary matters. First, attention is focused on the concept of a merit system. Then we turn to a brief preview of the five historical periods, which provide the organizational framework for the bulk of the report.

#### CONCEPT OF A MERIT SYSTEM

Over the years the merit system has not only grown in scope, or the number of employees covered, but also in depth, or comprehensive-

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\*Prepared for the committee by Virginia A. McMurty, Ph. D., Analyst in American National Government, Government Division, Congressional Research Service, Library of Congress under the direction of the staff of the committee.

<sup>1</sup> White, Leonard D. *The Federalists*. New York, Macmillan Company [1948] p. 255.

<sup>2</sup> U.S. Civil Service Commission. *Federal Civilian Manpower Statistics*; Monthly Release, May 1976. Washington, U.S. Civil Service Commission [1976] p. 5.

<sup>3</sup> For a definition of "merit system" and related terms, see subsequent discussion.

<sup>4</sup> U.S. Civil Service Commission. *Biography of an Ideal*. Washington, U.S. Govt. Print. Off. [1973] p. 2. For detailed figures on the expansion of the merit system over the years, see: McGrath, James P. *Statistical Survey on the Extension of the Competitive Civil Service Merit System, 1884-1975*. Congressional Research Service, typed report [Feb. 9, 1976] 4p. The 90 percent figure cited above includes the various independent merit systems (e.g., Postal Service), whereas the percentages presented in the table reflect only the Classified Civil Service.

ness of the principles and rules incorporated into the system. Various attributes have come to be considered as integral components of the modern merit system—as surveyed shortly. However, at the most fundamental level, a study of the expansion of the merit system begins with a consideration of the nature of recruitment methods for non-elective governmental positions over the course of American history. As Paul Van Riper has explained in his respected work, “History of the United States Civil Service.”

An entire civil service may be either nonpolitical or political or some combination thereof. Public employees selected through an examination system open widely to public competition have been a novelty, except in the Orient, until relatively recent times. Before the nineteenth century most civil servants were chosen upon what have been called, not always too appropriately, political grounds. That is, most public appointments were made on the basis of partisanship, influence, wealth, family, personal loyalty, blackmail, or charity, rather than intelligence or competence to do the work. This is the system of patronage as opposed to the merit system.<sup>5</sup>

It is useful at the outset to note that neither recruitment via patronage<sup>6</sup> nor via the merit system is a uniquely American phenomenon. As one writer has observed with respect to the practice of patronage:

Patronage was not invented or discovered in America; nor is it peculiar to government. In the general sense of appointments to office made for reasons of party or factional affiliation or personal gain, rather than because of personal qualifications for the posts, it has been practiced from time immemorial in diverse civilizations and in a variety of forms.<sup>7</sup>

Certain aspects of a career civil service based on merit principles can be observed in the history of ancient China, but the emergence of modern merit systems accompanied the process of industrialization and the development of the nation-state. Prussia began a merit system in the mid-18th century, followed shortly thereafter by France and then Great Britain. According to one source, “The United States was among the last of the major industrialized nations to inaugurate a civil service based on merit.”<sup>8</sup>

Congress has provided at least implicit definitions of principles to be employed in the Federal merit system in various pieces of legislation, beginning with the Pendleton Act. The thrust of this legislation in 1883 (discussed in greater detail in chapter 4) was upon the process of entry into the service; it called for competitive examinations of a practical nature, with the successful applicant to be selected from among those graded highest. After describing the passage of the Pendleton Act and the framework it established, Van Riper suggested:

We can conclude, then, that the American legislation of 1883 stimulated the development in the United States of a merit system founded on British precedents; that is, a system of civil service recruitment and organization based on: (1) competitive examinations, (2) relative security of tenure, and (3) political neutrality.<sup>9</sup>

However, the Civil Service Commission itself apparently did not focus serious attention to the definitional question until relatively

<sup>5</sup> Van Riper, Paul P. *History of the U.S. Civil Service*. Evanston, Ill., Row, Peterson and Co. [1958] p. 8.

<sup>6</sup> The so-called spoils system which was prominent in the mid-19th century United States, represents a “more personal and partisan” variant of patronage politics: “a patronage system, though it usually tends in that direction, is not necessarily a spoils system. \* \* \*” *Ibid.*, p. 8.

<sup>7</sup> Mansfield, Harvey C. *Political Parties, Patronage, and the Federal Government Service*. American Assembly. The Federal Government Service. Englewood Cliffs, N.J., Prentice-Hall [1965] p. 117.

<sup>8</sup> Shafritz, Jay M. *Public Personnel Management: The Heritage of Civil Service Reform*. New York, Praeger [1975] p. 10.

<sup>9</sup> Van Riper, p. 100.



recently. As is discussed further in chapter 6, in 1955 a provision was added to the Civil Service Rules (section 06.7), authorizing interchange of Federal employees between the competitive civil service and other Federal merit systems. Before negotiations could begin, though—

\* \* \* it was first necessary to establish standards by which to determine which of the various independent personnel systems in the Federal Government were merit systems within the meaning of this new provision of the Rules. A thorough search of public personnel literature, of previous publications of the Civil Service Commission, and of publications of other merit system jurisdictions failed to reveal commonly accepted standards of merit. Accordingly, the Commission undertook the development of such standards of merit.<sup>10</sup>

Tentative standards, included in the Commission's Annual Report for fiscal year 1956, were formulated as follows:

#### STANDARDS OF MERIT

These standards, adopted in tentative form, are stated in terms of objectives and principles rather than procedures or techniques, since the procedural requirements of each merit system may be peculiar to itself and not necessarily followed by other Federal merit systems.

The system must be designed to achieve, and in practice tend to achieve, the following general objections:

Securing the best qualified available personnel, either for particular jobs or for entrance into a career in the system.

Securing a stable body of employees dedicated to carrying out the policies established by officials responsible for policy formulation.

Providing a substantially equal opportunity for all interested citizens to be considered for employment without discrimination based on political, religious, racial, or other grounds.

The basic framework of the system must be established through laws, rules, regulations, or instructions in written form.

Actual operations under the system must accord with the framework established.

In the filling of positions under the system, the following principles of open competition must be applied:

Publicity must be given so that a reasonable amount of information is made available to citizens about the existence of vacancies.

Interested persons who have learned of the vacancy must have a reasonable opportunity to make known their availability for consideration.

Realistic and reasonably valid standards of competence and fitness must be applied impartially to all persons who make themselves available.

The standards must contain no test which constitutes discrimination based on factors other than competence and fitness. This includes the absence of any political clearances of applicants.

Selection must be from among those determined on the basis of the standards to be most competent.

Each applicant should be able to learn what consideration was given to his application.

Each applicant should have an opportunity to request and receive an administrative review of the consideration given to his application.

Procedures must be followed under which persons entitled to preference under the Veterans' Preference Act of 1944 are accorded the preference granted them in selection, and so that preference eligibles have an opportunity to ascertain how their preference was applied.

The above tentative standards have enabled the Commission to view employment operations in a new light and may eventually have a significance far greater than the immediate purpose for which they were developed.<sup>11</sup>

Perhaps this effort by the Commission stimulated interest in the problem of defining merit standards. Be that as it may, Civil Service

<sup>10</sup> U.S. Civil Service Commission. Seventy-third Annual Report, fiscal year ended June 30, 1956. Washington, U.S. Government Printing Office. [1956], pp. 28-29.

<sup>11</sup> *Ibid.*, pp. 29-30.

Commissioners subsequently have attempted their own definitions. For example, Harris Ellsworth, who served as Chairman of the Civil Service Commission from 1957-59, articulated three principles relating to the merit concept:

As we see it, there are three basic elements involved in a complete merit concept. They are:

*Competence.*—We seek the best-qualified people we can attract to perform the work of the Government.

*Stability.*—The complexities of modern government require a stable 'career' work force, which serves all the people regardless of changes in political administration.

*Equality of opportunity.*—All citizens of our country, regardless of their politics, religious beliefs, race, creed, or color, have the right to compete for employment on the basis of their ability and fitness for the work to be done.<sup>12</sup>

Another recent Commission Chairman, John W. Macy, Jr., who served from 1961-69, has discussed the merit concept in his book, *Public Service*. Macy has called attention to the mythology surrounding the merit concept which has emerged over the years and has suggested the need to rediscover the fundamentals. According to Macy,

Over the years since 1883, a vast mythology has grown up around the merit system itself. This mythology is compounded of assorted concepts of what a merit system really is—some vague, some specific, and many contradictory—plus an accumulation of procedural details. In a contemporary evaluation it is necessary to strip away the mythology and uncover the basic principles once again.

Theodore Roosevelt, the patron saint of a vigorous civil service, expressed these principles forcefully in his first presidential message to Congress: "The merit system of making appointments is in its essence as democratic and American as the common school system itself." This is the first basic principle. Democracy, open competition, equal employment opportunity—whatever you call it, the meaning is the same. The second basic principle is job ability. A merit system must select people who are competent and qualified for the jobs to which they are appointed. This was a key point in the basic act. It may seem too obvious to be worth mentioning today, but it was revolutionary in the nineteenth century, when the primary requirement for appointment was to be on the right side with the right people. The third basic principle is that of freedom from political influence or tribute and political neutrality on the part of civil servants. This principle is the basis of the civil service's stability and continuity.<sup>13</sup>

Perhaps the most recent and comprehensive definition of the modern merit system is contained in the landmark *Intergovernmental Personnel Act of 1970* (84 Stat. 1909), in which six component principles are outlined. Congress "finds and declares," it is stated in the opening declaration of policy in that act, that the quality of public service at all levels of government can be improved by the development of systems of personnel administration consistent with such merit principles as—

(1) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) Providing equitable and adequate compensation;

(3) Training employees, as needed, to assure high-quality performance;

(4) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(5) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religious creed and with proper regard for their privacy and constitutional rights as citizens; and

<sup>12</sup> Ellsworth, Harris. Foreword, U.S. Civil Service Commission. *Biography of an Ideal*. Washington, U.S. Government Printing Office, [1958] p. v, vi.

<sup>13</sup> Macy, John W., Jr. *Public Service: The Human Side of Government*. New York, Harper and Row [1971] pp. 16, 17.



(6) Assuring that employees are protected against coercion for partisan purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

Bernard Rosen, who served as Executive Director of the Civil Service Commission from 1971-75, incorporated the six items in this listing as the point of departure for his analysis of the present condition of the merit system in a recently published monograph.<sup>14</sup>

While the various formulations use assorted labels and have somewhat differing emphasis, one can sift through the respective definitions and ultimately arrive at three central principles of the merit system, important from its beginnings, along with three more recent, subsidiary components. First among the historic principles is recruitment via competitive examinations, or on the basis of "job ability" or "individual competence." A second major principle is absence of arbitrary removals, or "relative security of tenure." The third fundamental principle is that of political neutrality in the civil service.<sup>15</sup> Equal employment opportunity, while an aspect of the central principle of recruitment solely on the basis of individual competence, nonetheless has received emphasis as a distinct component of the merit system in recent years. The other two principles of the merit system, here being termed subsidiary, include equitable compensation and training programs. Although these three latter factors are among the six principles cited in the Intergovernmental Personnel Act listing and are important considerations in any system of contemporary public personnel administration, historically these components have not figured prominently in the debate surrounding the merit system and its expansion until quite recently.

A variety of other terms recur in discussions regarding the historical development of the U.S. civil service. We shall turn attention to the matter of definitions again in a later chapter.<sup>16</sup>

#### PREVIEW OF HISTORICAL PERIODS

The subsequent chapters, focusing on the evolution of the merit system, are organized around five historical periods.<sup>17</sup> It is not coincidental that the eras tend to divide along lines of Presidential administrations. As is described in greater detail in chapter 2, the American constitutional framework has bestowed on the President as Chief Executive primary responsibility for appointments and personnel matters. And the Pendleton Act, being in the nature of a framework law, left the precise contours and timing of future merit system expansion largely to the discretion of the President. As was described in a special issue of *Good Government*, focusing on "The Presidency and the Civil Service," and prepared by the National Civil Service League:

But only a small group of men—those gifted few who have held the Presidency of the United States—have ever had the power and the influence to

<sup>14</sup> Rosen, Bernard. *The Merit System in the U.S. Civil Service*. Monograph prepared for the Committee on Post Office and Civil Service, House, 94th Cong., 1st sess. (Committee Print No. 94-10). Washington, U.S. Government Printing Office, [1975] pp. 7-37.

<sup>15</sup> While most observers acknowledge the importance of this principle, there is considerable disagreement as to what constitutes "political neutrality" and how it should be preserved. The current debate regarding proposed amendments to the Hatch Act, which would lift many of the current restrictions on political participation by Federal employees, illustrates this point.

<sup>16</sup> See chapter 5, pp. 175-248.

<sup>17</sup> The time periods utilized in this study have been adapted from those suggested in *Biography of an Ideal* [1973] and O. Glenn Stahl, *Public Personnel Administration*. New York, Harper and Brothers [1956] (4th ed.), pp. 14-39.

make meaningful and permanent the lengthening skein of reforms advocated by the League and activated by the Civil Service Commission. . . . [T]he major benchmarks of progress in the civil service can be measured by the active interest of our Presidents.<sup>18</sup>

Of course, this is not to dismiss the very significant, albeit secondary, role of Congress in the process as well.

The first period, 1789–1828 focuses on the initial development of recruitment procedures under the new Constitution. While generally characterized as a period of relative bureaucratic efficiency in the history of American public administration, political considerations in the making of appointments were not entirely absent during this time. However, the first six Presidents, whose terms encompass this era, all tended to stress individual fitness for office as a very important concern in making appointments.

The second period, 1829–65, is often characterized as the maturation of the spoils system. Andrew Jackson certainly did not originate the spoils system, but he did expand it at the Federal level and provided a formal justification for it in terms of the democratic virtues of rotation in office. Increasingly during this period, partisan activities became the major qualification for public office. The dispensation of patronage was utilized to strengthen the party in power, and frequent turnovers in party control resulted in concurrent reshuffling of employees.

The period of 1865 to 1883 witnessed the beginning of a reform movement, culminating in the passage of the Pendleton Act. The civil service reformers, motivated by considerations of public morals as well as Government efficiency, experienced various setbacks along the way, but persistently worked to gain supporters in Congress and to educate public opinion. In 1871 an initial Civil Service Commission was appointed by President Grant, on the basis of authority contained in a rider to an appropriations bill; this experiment was abandoned in 1875 for lack of appropriations. The assassination of President Garfield in 1881 by a disappointed officeseeker provided the necessary catalyst to spur more comprehensive action to reform the spoils system.

The Pendleton Act of 1883 provided the framework for a merit system in Federal public employment. However, only about 10 percent of the civilian work force was covered by the provisions of the initial legislation. In the period, from 1883 to 1932 considerable expansion occurred until around 80 percent of Federal employees were under the merit system. With respect to analyses of this expansion, however, one must be aware of certain distortions often resulting from the spoils legacy. As one observer noted, "Another bothersome effect upon our thought about the public service which results from the spoils tradition is the mistaken emphasis upon the number of positions that have been removed from the grasp of the spoilsman, whereas what really matters is the importance of the positions."<sup>19</sup>

The years from 1933 to the present, tracing the emergence and development of modern public personnel administration, can be divided into at least two periods. The 20 years from 1932–52 saw the initial

<sup>18</sup> National Civil Service League. *The Presidency and the Civil Service, Good Government*, v. 84 (Spring 1967), p. 3.

<sup>19</sup> Friedrich, Carl Joachim. *The Rise and Decline of the Spoils Tradition*, *The Annals*, v. 189 (January 1937), p. 16.



setbacks of the early years under Franklin Roosevelt, as new agencies created to deal with the economic crisis were frequently exempted from the merit system. But there were also major innovations and expansions under Roosevelt's leadership a few years later, and the system weathered the demands of World War II. The most recent period from 1952 to the present contains a story of continued growth—the passage of the Intergovernmental Personnel Act, as noted previously, provided a manifesto of contemporary merit principles—as well as special challenges, threatening politicization of the merit system, as highlighted by the recent disclosures. However, one faces the usual difficulty here in attempting to relate contemporary history to a broad narrative survey.

The problem of perspective is compounded with a subject such as the merit system, which at the time of this writing has been much in the news, with new information concerning recent abuses coming to light. Against this background it should be noted that the years from 1952 to 1960 are covered in considerably more detail than the years from 1961 to 1976; likewise, the years from 1961 to 1968 are covered relatively more comprehensively than the years of the Nixon-Ford administration. The years since 1968 have of course been scrutinized in detail by the House Committee on Post Office and Civil Service during the 94th Congress; in a sense this historical study ends where the report of the House investigations begins.

A final point to mention in this introduction is that in reality any given civil service usually operates with a mixture of political and merit principles. The American experience certainly appears to illustrate such a hybrid. The relative proportions of "merit" as compared with "spoils" considerations in recruitment of Federal employees have varied throughout our history, with certain periods illustrating one tendency much more than the other, as will be described in subsequent chapters. But to characterize the history of the U.S. civil service as one of the "noble merit system" slowly overtaking the "evil spoils system," as all too frequently occurs, constitutes a gross oversimplification.<sup>20</sup>

As we shall see, long before merit principles became formally adopted in the 1883 legislation, there was some attention to individual competence as well as to administrative stability in decisions regarding recruitment and retention of Federal employees. Even during the height of the spoils era in the mid-19th century, many Government employees, particularly some of the chief clerks and those with special technical expertise, served for many years, providing a degree of continuity across administrations. And, of course, evidence which has come to light recently indicates that in the last few years, when many had come to take the observance of the merit principles for granted—although positions outside the classified service provided for acknowledged remnants of the spoils system even then—efforts to introduce overt patronage considerations into the competitive service met with a degree of success for a time. So while expansion of the merit system and decline of the spoils system have represented general patterns or themes in the evolution of the Federal civil service,

<sup>20</sup> An unpublished Civil Service Commission study, *History of the Federal Civil Service, 1789-1939*, provides an example of such: "The history of the Federal civil service since 1883 is the story of the successful introduction and gradual extension of the classified service." [p. x]

one must be sensitive to the concurrent countertendencies as well. As Herbert Kaufman has cogently observed :

While the era of unmitigated spoils is certainly distinguishable from the periods that preceded and followed it, the distinctions are mainly differences in degree rather than in kind. In every period, we have expected the public service to realize multiple values ; and what sets the periods apart, essentially, is the stress placed on one value relative to the others. Practically all values, however, have been recognized in some measure all of the time.<sup>21</sup>

In short, the record has not been one of "unmitigated progress" for the proponents of the merit principles.

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<sup>21</sup> Kaufman, Herbert. *The Growth of the Federal Personnel System*. American Assembly. The Federal Government Service. Englewood Cliffs, N.J., Prentice-Hall [1965], pp. 29, 30.



## CHAPTER TWO

## ADMINISTRATIVE BEGINNINGS, 1789-1829

In this chapter we consider early developments in the history of the American civil service, through the Administration of the sixth President, John Quincy Adams. This period has been characterized variously as illustrating "the staid, able service of the Federalist era,"<sup>1</sup> as the period of "relative administrative efficiency,"<sup>2</sup> or as simply "the stable years."<sup>3</sup>

There has been some tendency, especially in the latter Nineteenth Century, to look back upon this initial period and to idealize it as just short of utopian with respect to the pursuit of merit principles in the recruitment process to fill the newly created positions with the Federal government. For example, the Grant Civil Service Commission,<sup>4</sup> in its first report, dated December 18, 1871, described this early period as follows:

During the early administrations, appointments [to public office] were made from considerations of character and fitness, and removals took place for cause. This practice, as it was the wisest and most reasonable, was also to be expected, because Washington, having been unanimously elected to the Presidency, party divisions, as we know them, developed only toward the close of his administration. He required of applicants proof

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<sup>1</sup>U.S. Civil Service Commission. Biography of an Ideal. Washington, U.S. Govt. Print. Off. [1973] p. 5.

<sup>2</sup>Stahl, O. Glenn. Public Personnel Administration. New York, Harper and Brothers [1956; 4th ed.] p. 14.

<sup>3</sup>Kaufman, Herbert. The Growth of the Federal Personnel System. American Assembly. The Federal Government Service. Englewood Cliffs, N.J., Prentice-Hall [1965] p. 12.

<sup>4</sup>For a description of the Grant Civil Service Commission, see chapter four below, pp.

of ability, integrity, and fitness. "Beyond this," he said, "nothing with me is necessary, or will be of any avail to them, in my decision," John Adams made few removals, and those for cause. Jefferson said the pressure [on him] to remove was like a torrent. But he resisted it. Madison, Monroe, and John Quincy Adams followed him so faithfully that the Joint Congressional Committee on Retrenchment reported in 1868 that, having consulted all accessible means of information, it had not learned of a single removal of a subordinate officer, except for cause, from the beginning of Washington's administration to the close of that of John Quincy Adams.<sup>5</sup>

But, as the official Civil Service Commission history, Biography of an Ideal, explains after referring to this quotation, "Actually ... [it] is not entirely accurate. Presidents Washington, John Adams, and Jefferson did not espouse pure merit as unqualifiedly as the report makes it appear."<sup>6</sup> Moreover, in the words of one commentator, "The tendency of later generations to deify our first Presidents, whose achievements were indisputably remarkable, operates to obscure their brilliance as political leaders and practical administrators."<sup>7</sup> In brief, while unusually competent people tended to be recruited during this era, there were occasional exceptions to the generalizations and political considerations were not entirely divorced from the process. As Van Riper has observed:

The Federalists were neither administrative nor political angels. . . . To say that Federalist office-holders were generally honest and competent is one thing. To infer that Federalist appointments -- among them Washington's -- were nonpolitical or were the results of an almost modern conception of a merit system is completely to distort the reality.<sup>8</sup>

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<sup>5</sup>Cited in Biography of an Ideal, p. 7.

<sup>6</sup>*Ibid.*, p. 7.

<sup>7</sup>Kaufman, p. 19.

<sup>8</sup>Van Riper, Paul P. History of the United States Civil Service, Evanston, Illinois, Row, Peterson, and Company [1958] p. 20.



Before turning to an examination of the policies with respect to appointments followed by Washington and the other Presidents during this period, it is necessary to set the stage. Following a consideration of the background setting and a survey of the respective recruitment policies pursued by the first six Presidents and their subordinates, we turn to the matter of Congressional actions in the personnel field and an examination of early patterns in executive-legislative interactions. We conclude this chapter with a brief assessment of the extent to which merit principles were observed in this era and a preview of emerging trends.

#### I. Background and Constitutional Framework

In many respects American public administration in 1789 provided something of a clean slate. As one scholar has tersely observed: ". . . not only could Washington build a new executive structure; he had to."<sup>9</sup> But while considerable innovation was necessary in implementing the new Constitution, particularly on the part of the early Presidents, clearly there were certain parameters derived from prior American experience, the establishment of the constitutional framework itself, and the realities of public administration at the time.

The practice of appointing governing officials for political reasons accompanied the establishment of British rule in the American colonies; offices in the British colonial service in America "were secured through political connections, just as they were in England,"<sup>10</sup> Another writer, commenting on

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<sup>9</sup>Kaufman, p. 12.

<sup>10</sup>Hoogenbloom, Ari. Outlawing the Spoils. Urbana, Illinois, University of Illinois Press [1961] p. 4.

the origins of the so-called spoils system likewise has traced its antecedents to the early colonial period:

Patronage came to this country with the settlers in Colonial times. Pure as were the Puritans, it would be astonishing, indeed, if a system which flourished in the mother country had not been transplanted to its colonies along with most other habits, manners, and customs, . . . Throughout colonial times, government jobs were looked upon essentially as favors bestowed upon the job seeker in recognition of past and in anticipation of future services.<sup>11</sup>

Another legacy of the British experience was the tendency to regard public office as a form of personal property; in the colonial administration office "was sometimes bought and sold, tenure was often for life, kinship was important and office was often 'inherited' on an informal basis and. . . was generally reserved for members of the upper social classes."<sup>12</sup> As was noted in the previous chapter, formal merit principles were virtually unknown in Seventeenth Century Europe, so it is not surprising that the early colonial period reflected other practices.

Still another, rather contradictory legacy can be traced to the colonial period. As a result of the British practices, the colonists came to harbor resentments toward the perceived repressiveness of the British colonial administration and its agents. From this developed a general distrust of public officials and a desire carefully to circumscribe their authority.

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<sup>11</sup>Friedrich, Carl Joachim, The Rise and Decline of the Spoils Tradition, The Annals, v. 189, January, 1937, p. 10.

<sup>12</sup>Rosenbloom, David H. Federal Service and the Constitution. Ithaca, New York, Cornell University Press [1971] pp. 19, 20.



In short, there was

. . . a prevailing suspicion against public officials which had evolved during the colonial period. The predisposition of Americans to regulate the behavior and authority of public officers strictly was indicated by their complaint in the Declaration of Independence that King George III had 'erected a multitude of new offices, and sent hither swarms of officers to harass out people, and eat out of their substance.'<sup>13</sup>

The Framers of the Constitution were familiar with these factors and undoubtedly influenced by the somewhat contradictory legacies. Carl Fish began his classic work on The Civil Service and the Patronage by observing, "The makers of the Constitution [in 1787] fully realized that the adjustment of the power of appointment to office required careful consideration."<sup>14</sup> Under the Articles of Confederation, the first constitutional framework for the American States, the national civil service was very small and reflected the extreme decentralization and general ineffectiveness characteristic of the Articles as a whole; Article IX provided in part, "The united states in congress assembled shall have authority to appoint . . . civil officers as may be necessary for managing the general affairs of the united states under their direction . . . ." The delegates to the Constitutional Convention were virtually all in agreement on the desirability of changing this provision in the Articles of Confederation. According to Leonard White, one reason for the disenchantment with sole appointing power placed in the Congress was the following: "The practice of intriguing with Members of Congress for appointments had already begun, and corresponding intrigues

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<sup>13</sup> Ibid., p. 19,

<sup>14</sup> Fish, Carl Russell. The Civil Service and the Patronage. New York, Russell and Russell [1963; originally published 1904] p. 1.

in the states were the subject of adverse comment,"<sup>15</sup>

During the deliberations at the Constitutional Convention, "the question of the civil service was part and parcel of the more general problem of the extent of the executive power, and was itself scarcely drawn into the debate."<sup>16</sup> Insofar as the debates were specifically concerned with the recruitment of non-elective officials, the focus was entirely on major officers and how they might be appointed, "it being assumed that minor officials would be appointed by other executive officers,"<sup>17</sup> The debates over provisions for major appointments followed the general contours of the controversy over desirability of weak versus strong executive institution; the opposing points of view have been summarized as follows: "One group of men feared the abuse of the appointing power by the executive and favored appointments by the legislative body; another group of more resolute men, eager to establish a strong national government with a vigorous administration, favored the granting of the power of appointment to the President."<sup>18</sup> Ultimately, a compromise was worked out, as reflected in the language presently contained in Article II, section 2 of the Constitution:

The President. . .shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other

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<sup>15</sup>White, Leonard D. The Federalists. New York, Macmillan and Company, [1948] p. 254.

<sup>16</sup>Fish, p. 2.

<sup>17</sup>Harris, Joseph P. The Advice and Consent of the Senate, Berkeley, University of California Press, 1953 p. 34; for a comprehensive analysis of the debates at the Constitutional Convention regarding the appointing power, see pp. 17-35. For the debates themselves, see Farrand, Max (ed.). Records of the Federal Convention. 4 vols. New Haven, Yale University Press. 1911

<sup>18</sup>Harris, p. 33.



Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such other inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have the Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

The final provisions as contained in the new Constitution thus represented a considerable change from the situation under the Articles of Confederation where the appointing power had been totally vested in the Congress. In addition to the most obvious shifting of major responsibilities over the appointment process to the Executive Branch, other implications of the provisions contained in Article II, section 2, have been highlighted as follows: "This provision is extensive in its scope. It limits the appointment power, provides that offices must be created by law rather than by executive fiat, and allows Congress to regulate the appointment of lesser civil servants."<sup>19</sup> It is significant to note that the final language of the compromise over the appointment provisions was agreed upon only at the last minute, so to speak, of the Convention proceedings. A previous version had provided that the President was to "appoint to all offices which may hereafter be created by law." But the decision to adopt the ultimate wording has been of continuing consequence for American public administration, "because it gives Congress an important share of authority in regulating the civil service."<sup>20</sup>

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<sup>19</sup>Rosenbloom, 24.

<sup>20</sup>Ibid.

From the outset of government under the new Constitution the Senate participated in the "advice and consent" function for the confirmation of major officers -- including those in the foreign service, the military forces, and the Federal judiciary, as well as the more important civil service appointments -- thereby retaining a veto power over the President's choices. Moreover, in line with the last minute change Congress was also authorized to determine the method of appointment (whether in the President alone, in the courts of law, or in the heads of departments), for lesser officials, the so-called "inferior officers" -- "the somewhat unfortunate term used by the document's drafters to designate the vitally important corps of employees responsible for the operating work of the Government -- namely the Government work force."<sup>21</sup> However, for several decades Congress made relatively little use of this latter grant of authority.

The division of powers outlined in the Constitution between the Executive and Legislative Branches with respect to determining recruitment techniques for and/or selecting of nonelective government officials thus provides an example of the "checks and balances" motif in the American political system, or as has been more accurately labeled in recent years, an example of shared powers. Actually, while the Constitution represented a general centralization of power as contrasted with the Articles of Confederation, the new system was grounded on "a dual division of powers embodying both federalism and separation of powers."<sup>22</sup> Federalism -- the division and sharing of powers between the national and State governments -- affected the development of the public service in the early years mainly

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<sup>21</sup>Biography of an Ideal, p. 6.

<sup>22</sup>Van Riper, p. 12.



through a "reduced pressure upon the central government for the performance of additional functions. This helped to keep the federal service smaller in size than would have otherwise been the case."<sup>23</sup> As is further discussed in subsequent chapters, both the vertical cleavages between the Federal and State governments and the horizontal cleavages brought about by the sharing of powers among the various branches at the national level have exerted continuing albeit indirect influences on the evolution of the American public service and its recruitment methods.

While detailing these various features with respect to appointments, the Constitution was virtually silent on two other important personnel questions: tenure and removals. Aside from the special case of impeachment, the document made no mention of length of tenure or of location of the removal power for officials and employees of the Executive Branch; this omission led to an extended congressional debate in 1789.<sup>24</sup> A variety of other provisions in the Constitution related at least indirectly to the public service.<sup>25</sup> However, of particular relevance to the history of recruitment methods are two provisions in the Constitution, subsequently modified by the formal amendment process. First, Article I, section 3 of the original Constitution provided for the indirect election of Senators, who were to be chosen by the respective State legislatures rather than directly by the electorate. This remained the practice for over a hundred years, until the ratification of the Seventeenth Amendment in 1913; since 1913 Senators have of course been

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<sup>23</sup>Ibid.

<sup>24</sup>See discussion below, pp.

<sup>25</sup>For a survey of some of these other provisions, see Rosenbloom, pp. 22-24.

elected at large by the voters of their States. But while it lasted the indirect election of Senators as contrasted with the direct election of Members of the House had definite ramifications, and the pre-1913 arrangements are useful to recall when examining the unfolding of the civil service reform movement and specific legislative actions.

One also needs to keep in mind the situation with respect to the transition dates of terms for Federal elected officials prior to the effective date of the Twentieth Amendment of February 6, 1933. Until the ratification of this amendment, there was "absolutely nothing in the Constitution to specify when the term of a President, a Senator, or a Member of the House of Representatives was to begin or terminate."<sup>26</sup> Via statutes, resolutions and tradition, the expiration of the old terms and the beginning of the new terms came to be fixed in early March.<sup>27</sup> Hence there was a considerable amount of time from the November elections until the Inauguration in March, during which time the defeated officials still remained in office; such defeated officials were known as "lame ducks." The Twentieth Amendment changed this situation by stipulating as follows:

Section 1. The terms of the President and Vice-President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall be law appoint a different day.

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<sup>26</sup>U.S. Congress. Senate. Office of the Secretary. The Term of a Senator: When does it begin and end? Washington, U.S. Govt. Print. Off., [1973]. p. 1.

<sup>27</sup>See *ibid.*, pp. 2-5, for a discussion of the specifics involved in this evolution of practice with respect to transition in terms, prior to 1933.

These circumstances prior to 1933 are of special relevance to the civil service history, because many crucial events took place during the "lame duck sessions."<sup>28</sup> In short, it is useful, when examining the evolution of merit principles, to remain cognizant of the relationships between dates, events, and political configurations, all against the background of these Constitutional provisions.

A final aspect of the original 1787 framework and subsequent institutional development should be noted: the formation and growing importance of political parties and interest groups. While political parties are nowhere mentioned in the Constitution, they of course soon came to assume a central role in the American political process.<sup>29</sup> In the early days of colonial America the factions of Loyalists and Patriots emerged. At the Constitutional Convention in 1787 and during the ensuing ratification debate, there were the loose groupings designated as the Federalists and the Antifederalists. However, formal party organization did not really emerge until the 1790's. By the election of 1800 the Republicans,<sup>30</sup> led by Thomas Jefferson, had become the majority party and took over the Presidency from the Federalists. As we shall see, the emergence of modern political parties and their structural evolution over the years are integrally tied in with the history of recruitment practices for the civil service. In addition to political parties, other organizational

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<sup>28</sup>For example, there were the "midnight appointments" of President John Adams and the actual passage of the Pendleton Act itself. Subsequent to 1883, further extensions of merit system coverage often were accomplished via the "blanketing-in" process, during the "lame duck" period. Such matters are discussed in detail below.

<sup>29</sup>For the early history of political parties in the United States, see Chambers, William Nisbet. *Political Parties in a New Nation: The American Experience 1776-1809*. New York, Oxford University Press [1963].



vehicles for participation not referred to in the Constitution but subsequently assuming a position of considerable importance are the so-called interest groups;<sup>31</sup> certain groups of this sort made significant contributions to the civil service reform movement.

In addition to the Constitutional framework, one needs to consider briefly as a background factor affecting the development of recruitment practices the nature of the civil service structure and its changing responsibilities over the course of different eras. Two factors in this respect stand out during this early period: the relatively small size of the service and the generally nonspecialized occupational requirements. Although the growth of the Federal civil service in its earliest years was relatively large -- over a threefold increase by 1801, when there were some 3,000 Executive Branch employees -- Congress exercised its authority to create new positions only sparingly and in response to need.<sup>32</sup> Van Riper has observed that the substantial administrative challenges posed in 1789 were mitigated by this factor of small scale:

The total problem of recruitment and management of the federal public service was immensely simplified by the small size of the service of Washington's day, as well as by the fact that there were few holdover officials from the administrative regime of the Articles

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<sup>30</sup>There is some confusion created by the party labels. The Jeffersonian Party was later called the Democratic-Republican Party, and today's Democrats claim Jefferson as their founder. The contemporary Republican Party dates back to the 1850's.

<sup>31</sup>For a classic study of American interest groups see: Truman, David B. *The Governmental Process*. New York, A.A. Knopf [1971; 2nd ed.].

<sup>32</sup>White. *The Federalists*, p. 255.

of Confederation. Washington and his cabinet together made only a few hundred appointments. . . . To keep perspective, however, one must remember that there were then few other organizations even approaching this size, the state services being the principal competitors.<sup>33</sup>

Moreover, the years from 1789-1829 fell in a nonspecialized age.<sup>34</sup> This was reflected in the civil service, with the majority of workers performing rather routine, clerical tasks. Hence there was little need for personal proficiency in particular subjects on the part of a department's rank and file. For example, with respect to the Department of State throughout the 1790's, despite its considerable responsibilities for American foreign policy, "Nowhere in the Department was there a single person other than the Secretary who had experience or training in foreign affairs."<sup>35</sup> A few professionals sufficed to provide the necessary technical expertise. As late as the 1820's, there "were probably not more than fifty men with law degrees in the executive branch, about sixty navy surgeons and a lesser number of army surgeons, and about sixty civil and topographical engineers."<sup>36</sup> Leonard White in The Federalists, the first of his series of books on American administrative history, has provided this overview of the civil service in these early days, which deserves full quotation:

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<sup>33</sup>Van Riper, p. 19.

<sup>34</sup>The entire Nineteenth Century might be characterized as a "nonspecialized age," in comparison with the contemporary scene, of course. No implication of significance regarding the break between 1829 and 1830 regarding this characteristic is intended; increasing specialization was a gradual process.

<sup>35</sup>White. The Federalists, p. 128.

<sup>36</sup>White, Leonard D. The Jeffersonians. New York, Macmillan Company [1951] p. 383.

The eighteenth century civil service differed in many respects from that of a later period. Its temper and outlook were influenced by the class distinctions of the mother country; its working habits were those of a relatively leisurely era; its tools were of the simplest kind. . . .

Most civil servants were engaged in finance, record keeping, and the ordinary type of clerical operations, chiefly plain copying. The professional side of the service was modest indeed, comprising the judges, district attorneys and an occasional legal counsel elsewhere and a small number of physicians and surgeons in the army, navy, and marine hospitals. Add a few surveyors in the western wilderness, a few engineers in the army and a naval contractor, and the roll of professionally trained officials is complete. Science -- other than the professions -- was absent. Statisticians were unknown and professional economists could not be found on the North American continent, much less in the department of state. It was not an age of experts.<sup>37</sup>

Over the years, the growing specialization of governmental functions, reflected in the increasingly diverse and technical nature of the tasks delegated to the civil service, had consequences for the continuing appropriateness of particular recruitment policies.<sup>38</sup>

Finally, although any detailed consideration of management practices in the personnel field is beyond the scope of this study, it should be stressed that throughout this period (and for many years thereafter as well)

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<sup>37</sup>White. The Federalists, p. 303.

<sup>38</sup>So long as civil service jobs for the most part remained simple, there was less need for formal criteria of competence and a smaller loss of efficiency associated with frequent turnover of personnel, common in the period following that surveyed in this chapter. "Rotation-in-office" theories, cited in defense of the spoils system tended to stress this fact. But as the civil service jobs became more technical, the need for experienced, professional workers increased. The growing support for the merit system was probably not unrelated to these developments. See discussion of such points in following chapters.



personnel administration -- both public and private -- was definitely primitive by modern standards. Leonard White has described the situation during the specific years under discussion in this chapter, up to 1829, as follows:

No machinery for making appointments had ever been set up, or indeed even been thought of. Not only was there no central appointment office; only the Post Office Department had an agent to advise its head on the replacement of subordinates. A clerk was usually in charge of letters of application, which were filed for consideration against the day when a vacancy might occur. Department heads continued to make their own selections of clerks and subordinates without reference to the President.<sup>39</sup>

Moreover, to keep things in perspective one must also recall that there was no centralized Federal agency overseeing recruitment on a permanent basis for almost a hundred years, prior to the creation of the Civil Service Commission in 1883. It was not until well into the Twentieth Century that separate Personnel Offices were established in all the various Executive Departments.

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<sup>39</sup>White. The Jeffersonians, pp. 354-55.

## II. Recruitment Policies

Under the new constitutional framework there were only two elected executive officers of the Federal government -- the President and Vice President. Hence, after the new government was initiated in 1789, "almost the first task with which it had to deal was that of filling the offices, in order that the constitution, and the laws as they were passed, might be executed."<sup>40</sup> In this process the early Presidents, especially Washington, played critical roles.

There were definite continuities in recruitment principles pursued throughout the period from 1789-1829. For one thing, "the role of the President in single command of all branches of government business was unquestioned."<sup>41</sup> Moreover, both the Federalist and Republican Presidents

reflected the predispositions of their social class; and, since both came from the same social class, with varying rural-urban emphases, their views on officeholding were much alike. Standards of appointment from 1789 to 1829 conformed to a single pattern.<sup>42</sup>

However, variations in practices did exist and are of some significance in tracing the evolution of merit principles. Particularly noteworthy are the differences between Washington, who assumed the Presidency at the outset of the new government prior to the emergence of organized political parties, and Jefferson, whose election represented the first instance of transfer of power from one political party to another.

Despite the exaggerations of perfection already alluded to, there is virtual unanimity among historical observers that Washington's personnel policies

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<sup>40</sup>Fish, p. 7.

<sup>41</sup>White. The Jeffersonians, p. 547.

<sup>42</sup>Ibid., p. 368.

were indeed outstanding. As described by Leonard White, "Washington's standards for appointment were extraordinarily high, far above the levels which had been developed in Great Britain or France, and far above what his contemporaries and successors were able to maintain in the United States."<sup>43</sup> In his correspondence Washington revealed an awareness of the challenge posed by the special recruitment responsibilities falling upon him as first President. Only a few days after his inauguration, the President mentioned in a letter to a friend, "I anticipate that one of the most difficult and delicate parts of the duty of my Office will be that which related to nominations for appointments."<sup>44</sup> In November of 1789 he stated, "In every nomination to office I have endeavored, as far as my own knowledge extended, or information could be obtained, to make fitness of character my primary object."<sup>45</sup>

However, Washington's "fitness" criteria as a major principle to pursue in personnel decisions has been the subject of continuing discussion. While Washington was concerned with personal competence, the emphasis was not generally upon technical expertise. Rather of primary importance were a person's integrity and his reputation and standing in the community.<sup>46</sup> Such principles were "especially well adapted to the unspecialized and largely clerical bureaucracy of that day."<sup>47</sup> A survey of Washington's letters in-

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<sup>43</sup> White. The Federalists, p. 257.

<sup>44</sup> May 5, 1789, Washington, Writings, p. 309.

<sup>45</sup> Ibid., p. 469.

<sup>46</sup> White. The Federalists, p. 259.

<sup>47</sup> Kaufman, p. 13.



licated three circumstances tending to disqualify an applicant in his eyes: family relationship, laziness, and intemperance.<sup>48</sup>

Other factors as well apparently influenced Washington and tended to vitiate sole reliance on the principle of fitness and competence (with respect to integrity, reputation, and the like). One such additional criterion was geography; in order to solidify the bonds of the new nation it was thought prudent to consider such matters carefully. There were various ramifications stemming from considerations of geography. For one thing, there was a desire to achieve an equitable distribution of positions among the respective States, and hence an applicant's place of residence was important. In addition to attaining some rough degree of equity among the regions (if not for individual States) with respect to a "fair share" of Federal positions, from the outset the "residency rule" for positions in the field service was observed, whereby employees were "regularly drawn from the state and locality in which the officials were to serve; [according to Leonard White] local jealousy would have tolerated nothing less."<sup>49</sup>

Still another aspect relating to geography was the development of the tradition of consulting with the appropriate Members of the House and Senate with respect to positions in their Districts and States. As Fish noted in this regard, "in addition to this attempt to prevent jealousies between the several sections by selecting officials from the various States was the desire to make each choice acceptable to the section especially concerned."<sup>50</sup> Members of Congress were important sources of information, and from the earliest days under the new Constitution, they wrote to

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<sup>48</sup>White. The Federalists, p. 262.

<sup>49</sup>Ibid., p. 260.

<sup>50</sup>Fish, p. 8.

the President and the heads of the departments<sup>51</sup> on behalf of their friends or constituents. The evolution of this practice of consultation led to the rule of "senatorial courtesy;" although still in formation during this period, "the special concern of members with appointments in their own states was recognized to the usual exclusion of members from other states."<sup>52</sup> Evidence also suggests that Washington gave a certain preference to Officers of the Revolutionary Army, all other things being equal, in making appointments; veteran status alone was not sufficient. He likewise looked favorably upon those with previous experience in a State public service or in the government under the Articles of Confederation. And while never a determining factor, Washington also considered the financial status of applicants, taking note of special need.<sup>53</sup>

As mentioned already, organized political parties were not yet on the scene in 1789. But support for the Constitution was by no means universal, and so loyalty to the new system was a matter of great concern to Washington in filling government positions.<sup>54</sup> As Fish commented, "political orthodoxy was considered as one of the elements of fitness for office."<sup>55</sup> By the time loyalty to the new Constitution could be more

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<sup>51</sup>As was noted previously, clerks were usually appointed by the Department heads; see above, p. 27.

<sup>52</sup>White. The Federalists, p. 87.

<sup>53</sup>Ibid., pp. 260-62.

<sup>54</sup>The Congress quickly passed a law implementing the constitutional provision that required civil servants to swear their allegiance to the Constitution. U.S. Statutes at Large, I, 23 (June 1, 1789).

<sup>55</sup>Fish, p. 9.

or less taken for granted, political parties were becoming increasingly important, which in turn led to greater partisanship in appointments. As Fish wryly noted, "When political strife grew hotter and the Republican and Federalists parties began to emerge, and when, too, the irascibility of old age came upon him, Washington became more of a party man."<sup>56</sup> White has concluded that the evidence "clearly indicates that party opinion had become an important test for officeholding under Washington so far as high positions were concerned and under Adams for lesser ones as well."<sup>57</sup>

The personnel policies of John Adams were similar in principle to those of Washington, although from the outset Adams was more politically oriented. Reflecting upon his policies, he once said, "Washington appointed a multitude of democrats and jacobins of the deepest die. I have been more cautious in this respect."<sup>58</sup> The changing political configurations in the country undoubtedly contributed to the outlook of Adams; the election of 1796 had been extremely close, and the campaign had been bitter.

But while Adams preferred to select Federalists, he did not totally exclude others from consideration. In the words of one writer, "John Adams' New England conscience and his personal ideas of honesty and probity in public affairs were sufficiently strong to prevent his pressing the use of patronage to its logical end."<sup>59</sup> In a letter of October 4, 1800, Adams

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<sup>56</sup>  
Ibid., p. 13.

<sup>57</sup>  
White. *The Federalists*, p. 276.

<sup>58</sup>  
Ibid., p. 273.

<sup>59</sup>  
Van Riper, p. 21.



emphasized that he had never stipulated that a person's political creed might be an "insuperable bar to promotion. No such rule has ever been adopted." However, he continued in the same letter, "Political principles and discretion will always be considered, with all other qualifications, and well weighed in all appointments."<sup>60</sup>

In addition to a greater concern with partisanship in making appointments, Adams also fell somewhat short of adherence to the high standards of Washington in other respects. On two occasions Adams took actions that resulted in charges of nepotism; whether just or not, the circumstantial evidence placed the President in a questionable position.<sup>61</sup> Fish has provided this useful summary of Adams' policies:

On the whole Adams seems to have developed no such systematic policy of appointments as Washington, but to have yielded more to influence, time, and circumstance; he was more moderate than some of his advisers, but more prescriptive than the first president; the line of division that he drew was not exactly between Federalist and Republican parties, but rather between those with whom he agreed . . . and those with whom he differed. . .<sup>62</sup>

As already noted, the Constitution provided no guidelines with respect to tenure or removal of officials aside from the cumbersome impeachment procedure. Tenure was set by statute in a few cases,<sup>63</sup> but in general was simply "understood to be at the pleasure of the appointing agency."<sup>64</sup>

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<sup>60</sup> Adams, Works, IX, p. 87.

<sup>61</sup> White. The Federalists, pp. 278-80.

<sup>62</sup> Fish, p. 21.

<sup>63</sup> For example, the Judiciary Act of 1789 set the tenure of U.S. Marshals at four years.

<sup>64</sup> White. The Federalists, p. 257.

While there was the familiarity from the British colonial experience with the notion of a property right in office, this principle was never "established or seriously advocated, but permanent and continued employment during good behavior was taken for granted."<sup>65</sup> Aside from the brief transition period following the Inauguration of Jefferson (as discussed shortly), throughout the period from 1789-1829 "the expectation of life service was high," especially among lower officers such as clerks.<sup>66</sup> In at least one instance this expectation of indefinite service was written into law; the Act of 1799 establishing the U.S. Post Office provided "that the Postmaster General, deputy postmasters, contractors for carrying out the mail, and others employed under the aforesaid acts, shall continue to hold their several offices, appointments, and trusts, until they are otherwise removed."<sup>67</sup> But in the majority of cases during this period, lengthy tenure was due "not to law but to practice."<sup>68</sup>

There has been recurring debate over the years regarding the location of the removal power. However, the "decision of 1789" (discussed below) provided congressional recognition at least for a time that the removal power was to be placed solely with the President, or by delegation to his Department heads. With specific reference to the Administrations of Washington

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<sup>65</sup> White. The Jeffersonians, p. 369.

<sup>66</sup> Ibid., p. 555.

<sup>67</sup> 1 Stat 733, sec 31 (March 2, 1799). Italics added.

<sup>68</sup> White. The Jeffersonians, p. 369.

and Adams, Leonard White has observed that the need for removals seldom arose, "but there were enough cases to establish precedents. For the most part removals were occasioned for serious delinquency or for failure to account for public funds. . ."<sup>69</sup> Records with respect to removals of inferior officials (those not requiring confirmation by the Senate) have not been collected, but the number of instances during this period where removals necessitated Senate confirmation of a successor numbered seventeen for Washington and twenty-one for John Adams.<sup>70</sup>

During the years while Washington was President removals for political reasons were unknown (although in the latter years of his Administration partisan considerations came to influence appointments, as mentioned above). However, after Adams became President, "he was urged at times to replace officials for party reasons and a few changes were made in which party differences played a part."<sup>71</sup> For example, in 1797 Tench Coxe,<sup>72</sup> Commissioner of Revenue and an acknowledged Republican partisan, was dismissed by Secretary of the Treasury Wolcott on the grounds of "deliberate misconduct in office." According to Fish, aiding the opposition constituted the misconduct, and while Coxe may have used his official authority to advance the Republican cause, "that does not alter the fact that the removal was

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<sup>69</sup>White. The Federalists, p. 284.

<sup>70</sup>Fish, Carl Russell. Removal of Officials by the Presidents of the United States. American Historical Association, Annual Report, 1899, I, 65-86.

<sup>71</sup>White. The Federalists, p. 287.

<sup>72</sup>Subsequently, Coxe was appointed as supervisor for Pennsylvania by Jefferson.



made for party purposes, and that a precedent was set which might prove to be dangerous."<sup>73</sup> But to keep this in perspective, one should note that, according to White, none of the leading Federalists, including Adams and his lieutenants, ever "sought to make room for party adherents by removing officials and employees whose political reliability had become uncertain."<sup>74</sup>

In 1801, with the Inauguration of Thomas Jefferson, the *Presidency* passed from the Federalists to the Republicans, and everyone "waited to see what would happen upon the first transfer of the power to govern from one party to another."<sup>75</sup> The situation with respect to the civil service created an especially touchy issue. Jefferson found almost all the major offices and the majority of inferior positions as well filled with Federalists; he was later to remark, "Out of about six hundred officers named by the President there were six Republicans only when I came into office, and these were chiefly half-breeds."<sup>76</sup> Since there were at that time expectations of permanent civil service employment, however, not many vacancies could be anticipated as a result of natural turnover. A few months after assuming the *Presidency*, Jefferson indicated his apprehensions regarding this task:

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<sup>73</sup>Fish. *The Civil Service and the Patronage*, p. 19.

<sup>74</sup>White. *The Federalists*, p. 278.

<sup>75</sup>White. *The Jeffersonians*, p. 347.

<sup>76</sup>The Works of Thomas Jefferson. Federal ed., Paul Leicester Ford, ed. New York, G.P. Putnam's Sons [1904-5], X, pp. 393-94 (May 19, 1807).

. . . I had foreseen, years ago, that the first republican President who should come into office after all the places in the government had become exclusively occupied by federalists, would have a dreadful operation to perform. That the republicans would consent to a continuation of everything in federal hands, was not to be expected, because neither just nor politic. On him, then, was to devolve the office of an executioner.<sup>77</sup>

The Federalists of course wanted to protect their incumbents in office. While they acknowledged Jefferson's prerogative to appoint new Department heads, they contended that lower echelon civil servants "were beyond party bounds, servants of the nation, neutral in partisan debate, and deserving to be continued without interruption in their respective offices."<sup>78</sup> The editor of the New York Evening Post, William Coleman, perhaps with the assistance of Alexander Hamilton, provided eloquent defenses for the Federalists' position; in one passage Coleman reasoned, "Every man who accepts an office, takes it under an implicit contract from the Government, that he shall be continued in it, as long as he exercises it with fidelity and capacity. On this reliance he relinquishes his regular business, . . . and devotes his time and talents to his public employment."<sup>79</sup> However, the credibility of the Federalists was tarnished considerably by the increasing partisanship in appointments by Jefferson's predecessors, and especially by Adams' infamous "midnight appointments." In the aftermath

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<sup>77</sup> Ibid., IX, p. 289 (August 26, 1801).

<sup>78</sup> White. The Jefferson, p. 347.

<sup>79</sup> Cited in Fish, The Civil Service and the Patronage, p. 36.

of the election results in 1800, during the lame duck session preceding Jefferson's inauguration, Adams acquiesced to pressure from partisan colleagues and agreed to appoint loyal Federalists to a number of recently created judgeships and magistrate positions. The Commissions for some of these appointments were still in progress on the eve of the inauguration; from the perspective of the Federalists, in this way they could at least maintain control over one branch of the Federal government -- the judiciary. At the least the Federalists were hopeful that massive partisan removals by Jefferson would result in a public outcry, but in fact the opposite occurred. As described by Van Riper, "Jefferson's mild operating maneuvers were hailed as only right and proper by most of his adherents, and the general public, then as now, found little of interest in the plight of a displaced civil servant, especially if he had been active in partisan politics."<sup>80</sup>

So Jefferson proceeded cautiously. Shortly after entering the White House, he noted in a letter to James Monroe that "deprivations of office, if made on the ground of political principles alone, would revolt our new converts, and give a body to leaders who now stand alone."<sup>81</sup> Eventually, Jefferson articulated his doctrine of equal division of government offices between parties<sup>82</sup> and of the need, given the virtual monopolization of

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<sup>80</sup>Van Riper, p. 22.

<sup>81</sup>The Writings of Thomas Jefferson. Andrew A. Lipscomb and Albert Ellery Bergh, eds. Washington, Thomas Jefferson Memorial Association [1905]. IX, p. 204 (March 7, 1801).

<sup>82</sup>According to Van Riper, this doctrine was Jefferson's "principal contribution towards a theory of public office-holding" (p. 22).



Federalists in 1801, to "redress the balance." A dispute over the post of customs collector at New Haven in the summer of 1801 furnished the occasion for Jefferson to spell out this policy:

. . . If a due participation of office is a matter of right, how are vacancies to be obtained? Those by death are few, by resignation, none. Can any other mode than that of removal be proposed? This is a painful office, but it is made my duty, and I meet it as such. I proceed in the operation with deliberation & inquiry, that it may injure the best men least, and effect the purposes of justice & public utility with the least private distress; that it may be thrown, as much as possible, on delinquency, on oppression, on intolerance, on incompetence, on anti-revolutionary adherence to our enemies.

. . . It would have been to me a circumstance of great relief had I found a moderate participation of office in the hands of the majority. I would gladly have left to time and accident to raise them to their just share. But their total exclusion calls for prompter correctives. I shall correct the procedure; but that done, disdain to follow it, shall return with joy to that state of things, when the only questions concerning a candidate shall be, is he honest? Is he capable? Is he faithful to the Constitution?<sup>83</sup>

In implementing this policy of selected removals, Jefferson began with officers whose appointments might be questioned on legal grounds. This netted only a small group, mainly the "midnight appointments."<sup>84</sup> Next Jefferson turned to all other officers appointed by Adams during the lame duck period following the election of 1800, and attempted to justify replacements.<sup>85</sup> The third group of officials singled out for removal were the Federal attorneys and marshals. With respect to this action Jefferson

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<sup>83</sup> Jefferson, Writings, IX, pp. 273-74 (July 12, 1801). For a detailed discussion of the New Haven controversy, See Fish, Civil Service and the Patronage, pp. 33-37.

<sup>84</sup> The famous Supreme Court decision in the case of Marbury v. Madison (1 Cranch, 137) held that Jefferson had acted wrongly in making these removals, but due to other considerations the Court declined to issue a writ, and so Jefferson's appointees remained in office.

<sup>85</sup> Jefferson reasoned that Adams should not have made appointments to positions, when he knew they would primarily be serving another President. It is interesting to note that Jefferson followed this policy himself, and insofar as possible delayed filling any vacancies from December 1808 until March of 1809, so that Madison might make the selections. See Fish, The Civil Service and the Patronage, p. 32.

argued, "The courts being so decidedly federal & irremovable, it is believed that republican attorneys & marshals, being the doors of entrance into the courts, are indispensably necessary as a shield to the republican part of our fellow citizens. . ."<sup>86</sup> By summer of 1803 Jefferson's transitional phase, and the considerable removals accompanying it, had been completed. According to Fish's tabulation, during the whole of Jefferson's Administration, he removed 109 out of the total of 433 presidential officers, but such figures underestimate the extent of the personnel turnover. As Fish further pointed out, with respect to total removals by Jefferson:

In estimating the severity of this first prescription, as of all later epochs of removal, it must always be remembered that if the lists of removals were made out on the basis of salary, or of the influence which the various offices carried with them, the proportion of changes would be very much greater. Among the removals are always found the collectors of the great cities, the postmasters, the great territorial and foreign officers, and, under Jefferson, the supervisors of the revenue. These officers had subordinates under them and carried on minor proscriptions. It is difficult to secure information with regard to local and departmental removals at this period, there are no figures, and the policy was vacillating.<sup>87</sup>

Partisanship continued to be a consideration in Jefferson's appointment policy. Despite his ideal, to adopt a nonpartisan standard once an equilibrium was established,<sup>88</sup> he consistently selected Republicans to fill vacancies.<sup>89</sup>

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<sup>86</sup> Jefferson, Writings (Memorial Ed.), IX, p. 231 (March 24, 1801).

<sup>87</sup> Fish. The Civil Service and the Patronage, p. 43.

<sup>88</sup> See excerpt from New Haven letter, as cited in note 83 above.

<sup>89</sup> Fish. The Civil Service and the Patronage, p. 44.

Madison, Monroe, and John Quincy Adams followed the same practice. But, as Leonard White has observed, "within the party circle. . . Republican standards were high."<sup>90</sup> Attributes of character and reputation similar to those endorsed previously by Washington were sought; the tradition of "respectability and standing in community" were emphasized by Jefferson and adhered to as well by Madison, Monroe, and Adams. Just as the social backgrounds of the first six Presidents were rather comparable, throughout the period from 1789-1829 civil servants tended to come from the class of "gentlemen." The Federalist notion of a gentlemen placed the emphasis on wealth and family status, whereas Jefferson stressed the concept of a "natural aristocracy" derived from innate talents and education.<sup>91</sup>

In addition to the considerations of partisanship and competence, Republican personnel policies followed patterns previously established.<sup>92</sup> Geographical principles remained important. The local residency rule for positions in the field was observed, and the equal distribution of offices among the States evolved into more specific apportionment criteria. While the Federalists were initially concerned with "balancing" the areas represented by Department heads, the apportionment rule came to be applied informally but carefully to subordinate offices as well. As a result of this

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<sup>90</sup>White. *The Jeffersonians*, p. 356.

<sup>91</sup>"The concept of a gentleman was drawn from Elizabethan England. Its principal elements were virtue, learning, and wealth. The central theme was virtue, which was understood to connote justice, prudence, temperance, fortitude, courtesy, and liberality. The English gentlemen accepted an obligation to govern his country; the great aristocrats were occupied in the foreign service and the high offices of state, the lesser gentry were engaged in the conduct of local affairs as justices of the peace. The Virginia gentleman, of whom Washington and Jefferson were prototypes, recognized the same moral obligation." *Ibid.*, p. 548.

<sup>92</sup>For a survey of Republican personnel policies, 1801-1829, see *ibid.*, pp. 354-64.

situation, Jefferson had to write apologetically to a fellow Virginian:

Virginia is greatly over her due proportion of appointments in the general government, and tho' this has not been done by me, it would be imputed as blamed to me to add to her proportion. So that for all general offices persons to fill them must for some time be sought from other states, and only offices which are to be exercised within the state (i.e., Virginia) can be given to its own citizens.<sup>93</sup>

Jefferson carefully avoided any appearances of nepotism, as did his three successors, but was criticized for favoritism in a case or two, with respect to showing partiality to his personal friends.<sup>94</sup> Veterans received no firmer statutory preferences under the Jeffersonians than they had before, but military service "counted favorably in the selection of officials and subordinate employees, especially in the customs service."<sup>95</sup> Members of Congress continued to be consulted, and increasingly the successful candidate for a position carried the endorsement of his State's congressional delegation.<sup>96</sup>

During this period recruitment examinations appeared, but only for a very few positions. Probably the first example of an examining board in the United States was that provided for by An Act to Regulate the Medical Establishment, (1 Stat. 721) signed March 2, 1799; section 9 stipulated:

And be it further enacted,  
That the physician-general, or in his absence, the senior medical officer, with the approbation of the commander in chief, or commanding officer of a separate army, be and hereby is authorized and empowered, as often as may be judged necessary, to call a medical board, which shall consist of the three senior medical officers then present, whose duty it shall be to examine all

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<sup>93</sup>Jefferson, Works (Federal ed.), IX, pp. 350-53 (Feb. 20, 1802).

<sup>94</sup>Fish. The Civil Service and the Patronage, pp. 50, 51.

<sup>95</sup>White. The Jeffersonians, p. 359.

<sup>96</sup>Fish. The Civil Service and the Patronage, p. 47.



candidates for employment or promotion in the hospital department,  
and certify to the Secretary at War the qualifications of each.  
 (Italics added)

According to White, the "army medical corps was the first to develop a test system."<sup>97</sup> Army regulations of 1814 for the medical department provided that "no candidate will hereafter be appointed in the medical department of the army, who shall not have received a diploma from a respectable medical school or college, without first passing the examination of an army medical board."<sup>98</sup> By 1824 the Navy had established a comparable system, establishing a board of "old and skillful surgeons, for the examination of those who should apply for the appointment of surgeon's mate, or for promotion as surgeon, and to recommend to the President no one who had not submitted to an examination, and been declared, by that board, to be qualified... by his talents, acquirements, and character."<sup>99</sup> Meanwhile, an examination system for cadets at West Point was instituted in 1818, and for midshipmen at Annapolis in 1819.<sup>100</sup> These initial efforts at recruitment by examination were entirely confined to the military sector. With respect to Federal civilian employment, "no one thought of a system of examinations. Individual applications, with letters of recommendation, and appointment on the basis of personal knowledge or confidence in testimonials were the order of the day."<sup>101</sup>

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<sup>97</sup>

White. The Jeffersonians, p. 362.

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Brown, Harvey E. (compiler). The Medical Department of the United States Army from 1775 to 1873. Washington, Surgeon General's Off. [1873] p. 97.

<sup>99</sup>

Cited by White. The Jeffersonians, p. 363.

<sup>100</sup>

Ibid.

<sup>101</sup>

Ibid., p. 364.

President Wilson and Senate President Harding disagreed as to what the new national cabinet and administrative departments ought to be. The President had already been criticized by Congress.<sup>142</sup> In contrast Wilson and Harris were "strong, clear", the Senate, however, in the case of the Federal Communications Commission. "While opportunities for their great executives and their department heads to take appointments according to their own departmental policies without consulting me already in office."<sup>143</sup> Between 1911 and 1912 the Federal service department suffered a loss, having almost 1,000 officials removed by the early 1910's due to the

In general, Wilson and Harris concurred with Jefferson's emphasis on competence and responsibility in selecting officials, but both were weaker President and Senator had experience in their respective offices. In the Senate and neither a failure. The loss of political power gave both parties an opportunity and they attempted to control, control the Senate, the membership of the party.<sup>144</sup> During the War of 1911, Wilson attempted to strengthen national unity by appointing new Senators. The policy might have resulted in "a national" system.<sup>145</sup> During Wilson's administration, the political life of the Senate, there was not one stable party and political competition tended to be more intense, and political influence for members parties. In November 1912,

<sup>142</sup> The Senate, p. 25.

<sup>143</sup> The Senate, p. 25.

<sup>144</sup> The Senate, p. 25.

<sup>145</sup> The Senate, p. 25.

TABLE 1

Federal Civilian Employment, 1790-1880

<u>YEAR</u>	<u>TOTAL EMPLOYED</u>
1790	780
1800	3,000
1810	4,817
1820	6,704
1830	11,451
1840	18,106
1850	26,174
1860	34,571
1870	51,000
1880	106,000

Sources. Data for 1790 and 1800 from Leonard B. White, *The Federalists* (New York, Macmillan, 1948), p. 115. Remaining figures from U.S. Department of Commerce, Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1907* (Washington, U.S. Govt. Print. Off., 1960), p. 729.

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It should be noted that the figures included in this table come from the 1960 edition of the Historical Statistics work. A previous edition, published in 1940, presented somewhat different figures for some of the early years. Van Riper and others cite totals from the 1940 edition. It would appear that the compilation techniques utilized in the latter edition were more refined, although all such statistics must be interpreted with care.

Though parties seemed dead, politics were not; and three opposing political leaders, three rival candidates for the succession, were members of the cabinet. Under such conditions it is natural that the heads of departments should have played a more prominent part in the distribution of the patronage than ever before or since. The president attempted to avoid friction by giving to each head complete control of his own department.<sup>107</sup>

During the Administration of John Quincy Adams the state of the civil service became a major political issue (see discussion in following section). Although of the same party as his predecessors, he had a different political outlook, but refused to exploit the powers of removal and appointment for partisan purposes. As characterized by Van Riper, "an unbending integrity and conscience did not permit the President to adopt the political maneuvers of a spoils politician."<sup>108</sup>

Madison and Monroe removed twenty-seven presidential officers each. Madison's removals were almost entirely from among the ranks of revenue officers; about a third of Monroe's fell in this category, with removals of consuls in the foreign service comprising almost another third.<sup>109</sup> The second

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<sup>107</sup>

Fish. Civil Service and the Patronage, p. 62.

<sup>108</sup>

Van Riper, p. 28.

<sup>109</sup>

Fish. Removal of Officials by the Presidents of the United States, pp. 71-72.



Adams made only twelve removals, despite the admonitions from his political advisers, contending that removals derived solely from Presidential whim were "inconsistent with the principle upon which I have commenced the Administration,<sup>110</sup> of removing no person from office but for cause."

Of the six Presidents included in this period, then, Jefferson during the "transition period" made by far the most removals. As a result, Fish observed:

Technically one must assign to Jefferson the introduction of the spoils system into the national service, for party service was recognized as a reason for appointment to office, and party dissent as a cause for removal. It was not, however, the sole reason required; and . . . the character of the civil service was really not changed much.<sup>111</sup>

The Civil Service Commission's history, under a section titled "Pendulum Begins to Swing" notes that the "midnight appointments" of Adams and the "retaliation" by Jefferson set in motion partisan patterns which culminated in the spoils system; "once this pendulum started swinging, it became increasingly difficult to stop."<sup>112</sup> But as Leonard White concluded, Jefferson was no spoilsman; "he raised a standard that in retrospect commands honor, and by his prudence delayed for a generation the practice of rotation in federal office, already breaking into state circles."<sup>113</sup> Moreover, Jefferson formally expressed concern about safeguarding the neutrality of the Federal service. In what is apparently the first

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Memoirs of John Quincy Adams. Charles Frances Adams, ed. Philadelphia, J.B. Lippincott [1874-77] VI, pp. 546-47.

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Fish. The Civil Service and the Patronage, p. 51.

112

Biography of an Ideal, pp. 9-10.

113

White. The Jeffersonians, p. 354.

Presidential order attempting to regulate political activity by Federal employees, Jefferson stated in an 1801 circular distributed to all government offices:

The President of the United States has seen with dissatisfaction officers of the general government taking on various occasions active parts in the elections of public functionaries, whether of the general or state governments . . . The right of any officer to give his vote at elections as a qualified citizen is not meant to be restrained, nor, however, given shall it have any effect to his prejudice; but it is expected that he will not attempt to influence the votes of others, nor take any part in the business of electioneering, that being deemed inconsistent with the spirit of the Constitution and his duties to it.<sup>114</sup>

But as various commentators have noted, "The circular was ineffective, and Jefferson removed primarily those officers engaging in political activity<sup>115</sup> against his administration."

As noted previously, despite the instances of removals (particularly during the period from 1801-03), tenure in the Federal service throughout this era was generally for life. This relative stability and continuity had various ramifications. On the one hand, employees were usually experienced, and agencies developed an esprit de corps with workers who had served together for years. On the other hand, important middle management positions tended to be held by increasingly older men, thereby impeding any influx of fresh ideas, and superannuation became an increasingly serious problem. Since public retirement systems

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As cited in Rimensnyder, Nelson F. Regulation of Political Activities of Federal Employees Prior to Enactment of the Hatch Political Activities Act (1939-1940): A History of Policy. U.S. Library of Congress, Congressional Research Service [multilith 73-57, December 29, 1972] p. 2.

<sup>115</sup>

Rosenbloom, p. 40.

were still far in the future and since removal tended to carry negative connotations of fault or delinquency on the part of the employee, Federal workers frequently were carried on the payroll even after their productivity was greatly reduced by senility, creating in effect an informal pension arrangement.<sup>116</sup>

### III. Congressional Action

The Constitution gave the Senate a specified role in the appointment process for major Federal officers via the "advice and consent" requirement for confirmation of the Presidential nominees. As already noted, the practice quickly developed that Presidents consulted informally with Members of Congress concerning appointments, and especially with a State's delegation in regard to the filling of a local position. As White stated, "Senators and to a lesser extent Representatives promptly began to interest themselves in appointments. By the end of [John] Adams' administration the convention had become well established that Congressmen were normally consulted concerning nominations to federal office."<sup>117</sup>

In an insightful discussion focusing on the Federal service and Congressional-Presidential relations, Herbert Kaufman has noted that aside from the Constitutional provision for Senate confirmation and the usefulness of Congressmen as sources of information, practical political considerations mandated a role for the Congress in the formulation of recruitment policy. For example, given the Constitutional framework of shared powers, the President needs Congressional support -- especially appropriations -- to function as Chief Executive, and thus can "never afford to

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<sup>116</sup>

White. The Jeffersonians, pp. 375-78.

<sup>117</sup>

White. The Federalists, p. 83.

arouse the hostile opposition of the members of Congress by arbitrarily ignoring their preferences." Equally significant is the decentralized nature of the American party system with organizational power centered in the State and local units, so that "members of the national legislature owe their election to the State and local political organizations rather than to the national party headquarters." Distribution of available government jobs to the party faithful became an accepted practice, and was disregarded at the risk of jeopardizing an incumbent's reelection. Particularly prior to the adoption of the Seventeenth Amendment and direct election of Senators, "without federal patronage, the ability of a candidate for the Senate to influence the action of the state legislators<sup>118</sup> would have been seriously curtailed."

Given the necessity for cooperation between the branches coupled with an inherent institutional and sometimes political rivalry with respect to prerogatives for shaping recruitment policy for Federal officials, "The public service very early became a battleground in the relations of the President and Congress, with Congress seeking to lay its hands on the patronage and the President acceding to its wishes in return for a consideration -- support of his programs and policies."<sup>119</sup> While Leonard White has concluded that "no President before 1829

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Kaufman, pp. 23-24.

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Ibid, p. 19.



undertook to buy leadership or legislation with patronage,"<sup>120</sup> previous discussion here has served to illustrate that partisan considerations began to play a role from Washington's second term onward. Several Congressional initiatives to protect and/or extend its role in Federal personnel matters occurred in the period from 1789-1829.

One sometimes finds references to the "decision of 1789" in discussions on recruitment policy. This first major controversy under the new framework involved the location of the removal power, not specifically mentioned in the Constitution. At issue was a proposal to create the Department of Foreign Affairs as the first Executive Department; among other things the bill provided that the President was to have sole removal power over the future Department head (and by implication,<sup>121</sup> over other Executive Branch officials as well). A lengthy debate ensued in the House during which the following basic positions were advocated:

1. The power to remove was part of the executive power granted to the president by the Constitution and therefore he could exercise it without the advice and consent of the Senate.
2. The power to remove was connected to the power to appoint and therefore the Constitution required the Senate's concurrence.
3. The only constitutional means of removal was impeachment.
4. The Constitution gave Congress the authority to decide where the removal power should be vested.
  - A. Congress should vest it in the president alone.
  - B. Congress should vest it in the president and the Senate.<sup>122</sup>

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<sup>120</sup>

White. The Jeffersonians, p. 43.

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For a description of the debate leading up to the "decision of 1789" see White, The Federalists, pp. 20-25.

<sup>122</sup>

Rosenbloom, p. 26.

The final decision to pass the proposal resulted from an alliance between those holding positions 1 and 4A; the vote in the House was 31-19, but a tie-breaking vote by Vice President Adams was required for the measure to clear the Senate on July 18, 1789. The ultimate approval "implied congressional endorsement of an almost unrestricted power of removal as a prerogative of the President."<sup>123</sup> But the "decision of 1789" did not provide a final resolution of the issue; instead, "The difficulty of determining the precise division of authority over appointments and removals as between the President and Congress was to provide a continuing basis of contention."<sup>124</sup>

During the First Congress the issue of political neutrality of the Federal service also arose. While the House was debating a bill to levy an excise tax on distilled spirits, an amendment was proposed "to prevent inspectors, or any officers under them, from interfering, either directly or indirectly, in elections, further than giving their own votes, on penalty of forfeiting their offices."<sup>125</sup> After a short debate, the House rejected the amendment by a vote of 37 to 21.

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<sup>123</sup>

Van Riper, p. 15.

<sup>124</sup>

Ibid.

<sup>125</sup>

Annals of Congress. 1st Congress, 2nd sess., p. 1924. See Rimensnyder, p. 1, for further discussion of this debate.

However, this 1791 debate presaged several contentions raised repeatedly in recent efforts to lift restrictions subsequently imposed on political activities of Federal employees.<sup>126</sup>

Racial discrimination in the Federal service likewise emerged during this era. In 1802 the Postmaster General had warned of the threat to internal security, were Negroes allowed to carry the mail, because they might thereby acquire subversive ideas and coordinate an uprising. In 1810 Congress enacted a law (2 Stat. 594) providing that "no other than a free white person shall be employed in conveying the mail." The law was reenacted in 1825, and was not finally repealed until 1865 (13 Stat. 515).<sup>127</sup>

Perhaps the label of "first civil service reform effort" belongs with the activity of the House in 1811 relating to a proposed Constitutional amendment. Although the movement as a reform measure now appears "aimless and ineffective," its significance "lies in the fact the the object was not to secure a more efficient civil service, but to guard against a political danger."<sup>128</sup> The proposed

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The immediate source of current restrictions on the political activities of Federal employees is the Hatch Act, as amended, originally passed by the Congress in 1939 (53 Stat. 1147). In the 94th Congress H.R. 8617, which would lift many of these restrictions, passed both Houses but not by the sufficient two-thirds majorities needed to override the President's veto. See discussion in following chapters.

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Rosenbloom, p. 124. He further notes, "Although the statute applied only to postal employees, it is believed that there were no Negroes in the bureaucracy until 1869 when Ebenezer Basset became minister to Haiti."

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Fish. The Civil Service and the Patronage, p. 57.

amendment provided that a Member of Congress might accept no "employment, under the authority of the United States, until the expiration of the Presidential term in which such persons shall have served as senator or representative." Article I, section 6 of the Constitution already prohibited Members of Congress from assuming a government position newly created or increased in stipend while they were in office; appointments of Congressmen for existing positions or after departure from Congress were not mentioned, however.

Particularly during this era when the Congressional Caucus was "the single most important presidential nominating body," there was concern over the practice of "appointing congressmen and senators to executive office" following their support for the successful presidential candidate. <sup>129</sup> In the broader perspective this patronage threatened the separation of powers and tended to reduce the position of Congress viz-a-viz the Executive. As Kaufman notes regarding this amendment attempt:

The purpose was to prevent the President from subordinating Congress by rewarding submissive members with government jobs; members of Congress apparently prized such appointments, for Jefferson placed 20, Madison employed 29, and Adams complained that half of the legislators were seeking office for their relatives, the other half for themselves.<sup>130</sup>

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Van Riper, p. 24. For a brief discussion of the origins of the caucuses and their role in the nominating process, see: David, Paul T., Goldman, Ralph M., and Bain, Richard C. The Politics of National Party Conventions. Washington, Brookings Institution [1960] pp. 10-17.

130

Kaufman, p. 18. The relatively greater salary of the higher Executive Branch positions at this time as compared with very low congressional compensation apparently provided the major lure.



The vote on the amendment was 71 to 40, a clear majority, but short of the two-thirds needed.<sup>131</sup> Several unsuccessful attempts to pass similarly worded amendments followed.<sup>132</sup>

Another landmark congressional action in this early period was the passage of the Tenure of Office Act (3 Stat. 582) in 1820. As described by White:

The act itself was brief. It provided that the principal officers concerned with the collection or disbursement of money should be henceforth appointed for fixed terms of four years, and that the commissions of present incumbents should expire at stated intervals, not later than September 30, 1821. The classes of agents affected were district attorneys, collectors of customs, naval officers and surveyors of the customs, navy agents, receivers of public money for lands, registers of the land offices, paymasters in the army, the apothecary general, the assistant apothecaries general, and the commissary general of purchases. Not affected were pursers, Indian agents, postmasters, or any of the accounting and clerical officers and employees stationed in Washington.<sup>133</sup>

The law further authorized the President to adjust the bond required for various officials and stipulated the procedure for processing of commissions for all revenue officers.

<sup>131</sup>

For a summary of this 1811 debate see: Fish. The Civil Service and the Patronage, pp. 56-59. For the full discussion, see: Annals of Congress, 2nd Cong., 3rd sess. 454, 840-854, 897-900, 904-905.

<sup>132</sup>

See The Jeffersonians, pp. 90-91, for citations of these attempts to tighten the constitutional provision regarding employment of former Members of Congress in the Executive Branch. Some of these efforts are discussed below.

<sup>133</sup>

White. The Jeffersonians, p. 387.

Most sources agree that the Secretary of the Treasury, William Crawford, was the instrumental force behind this legislation. However, interpretation of Crawford's motives vary. "Whether this act was passed to tighten up fiscal controls on a wide range of public offices by requiring more regular presentation of accounts or whether it represented a deliberate attempt by Crawford to improve his patronage position with a view to his presidential candidacy in the forthcoming election is not too clear."<sup>134</sup> Or more succinctly stated, "Whether he [Crawford] was animated by a desire to make accountable officers more accountable or nonpartisan more partisan is a subject of dispute."<sup>135</sup> At this time there was a real need for greater accountability by fiscal officials; and as has been noted above, during this period tenure of office tended to be for life for lower level civil servants, with dismissal implying some character deficiency. So the advocates of the legislation advanced an attractive rationale:

Ostensibly, the purpose of the act was to compel a regular submission of accounts, at the end of each term of office, from officials handling public funds. Supporters of the law claimed that most officials would be reappointed, but that a convenient means would also be provided for removing, by failure to reappoint, unsatisfactory officials without damaging their reputations.<sup>136</sup>

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<sup>134</sup>

Van Riper, p. 25.

<sup>135</sup>

White. The Jeffersonians, p. 387.

<sup>136</sup>

Biography of an Ideal, p. 12. For a more detailed discussion of the circumstances surrounding the passage of this act, see: Fish. The Civil Service and the Patronage, pp. 65-70.

However, the major effect of the law was to facilitate turnover of personnel and thereby to create expanded opportunity for patronage. Instead of holding office indefinitely during good behavior, Federal workers in the categories specified subsequently were to have four year terms, although reappointment was permissible. Rosenbloom has stressed the importance of the 1820 law because "it confirmed the absence of a legal right to office and encouraged the adoption of the spoils system."<sup>137</sup>

The dangerous political consequences of the Tenure of Office Act were quickly recognized. In his Memoirs, John Quincy Adams related that Monroe apparently signed the bill hastily: "Mr. Monroe unwarily signed the bill without advertising to its real character. He told me that Mr. Madison considered it as in principle unconstitutional . . . Mr. Monroe himself inclined to the same opinion, but the question had not occurred to him when he signed the bill."<sup>138</sup> Jefferson, in a letter to Madison, likewise voiced his concern over the new law:

. . . It will keep in constant excitement all the hungry cormorants for office, render them, as well as those in place, sycophants to their Senators, engage these in eternal intrigue to turn out one and put in another, in cabals to swap work; and make of them what all executive directories become, mere sinks of corruption and faction. This must have been one of the midnight signatures of the President, when he had not time to consider, or even read the law . . .<sup>139</sup>

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<sup>137</sup>  
Rosenbloom, p. 42.

<sup>138</sup>  
Adams. Memoirs, VII, pp. 424-25 (Feb. 7, 1828).

<sup>139</sup>  
Jefferson. Works (Federal ed.), XII, pp. 174-75 (Nov. 29, 1820).

Monroe and Adams refused to utilize the opportunity presented, and instead reappointed virtually all incumbents, unless there was cause for dismissal. Particularly for Adams, this position was a matter of principle; he said, "I determined to renominate every person against whom there was no complaint which would have warranted his removal . . . ." <sup>140</sup> The implications of the Tenure of Office Act for Congressional-Executive Branch relations should also be mentioned; according to White this legislation "was a powerful engine in the development of congressional influence in appointments." <sup>141</sup>

A final attempt at civil service reform by the Congress during this period occurred in 1826. Nathaniel Macon, previously the leader of the 1811 amendment effort, again raised the matter of recruitment to the Federal service, and a Senate Select Committee to "inquire into the expediency of reducing the Patronage of the Executive Government of the United States" was created. However, due to Macon's failing health, Senator Thomas Benton was appointed Chairman.

The 1826 Report of the Benton Committee <sup>142</sup> contained a compilation of Federal positions, including the salary for each and the locale of appointing authority, along with a number of recommendations. According to White, the

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Adams. Memoirs, VI, p. 521 (March 5, 1825).

<sup>141</sup>

White. The Jeffersonians, p. 129.

<sup>142</sup>

U.S. Congress. Senate. Committee on Executive Patronage. Inquiry into the expediency of reducing the Patronage of the Executive Government of the United States. 19th Cong., 1st sess., Senate Report 88, May 4, 1826. Washington, Duff Green [1826].



Committee was composed of partisan friends of Andrew Jackson, and the Report's attack on executive power and implicit doctrine of legislative supremacy over recruitment ought not to be taken too seriously; "the authors were not fighting a battle of a constitutional order, but one of factional advantage."<sup>143</sup> After surveying the steady growth of Federal expenditures and of patronage, the Report called not for an end to this expansion, but rather for a reduction of presidential power. As characterized by Fish:

It is significant that the committee did not show itself eager to reduce the amount of patronage, but only to shift the control. . . . It is evident that the ultimate object of the reformers was still not so much to improve the service as to reduce the power of the president, which they rightly judged was liable to great extension. . . . (T)he design was to divide the patronage between the executive and legislative departments. This was the first distinctly aggressive act on the part of the Senate in the great struggle between that body and the president for the control of the patronage.<sup>144</sup>

In order to assure greater power for the Congress, six bills were reported by the Committee, providing for:

(1) selection of local newspapers for public printing by the Congressional delegations from the respective States;

(2) repeal of the Tenure of Office Act and substitution of a requirement that any delinquent collector or disburser be dismissed if an accounting report were not submitted on schedule every four years; also, that the President state cause for removal of each officer when submitting nomination for the successor;

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<sup>143</sup>

White. The Jeffersonians, p. 391.

<sup>144</sup>

Fish. The Civil Service and the Patronage, pp. 74-75.

- (3) Senate confirmation of many postmasters;
- (4) and (5) apportionment by State (and Congressional District) for appointments of cadets and midshipmen to the military academies; and
- (6) stipulation that military and naval commissions henceforth be "during good behavior" rather than "at pleasure" thus decreasing the scope of removals at discretion of the President.

The bills eventually were all tabled by Macon himself, because of his poor health and resulting inability to assume the necessary leadership to guide them through the legislative process. But perhaps the greatest significance of the Benton Report in the long run related more to elections than to appointments. "The influence of a well-organized phalanx of federal officials on elections, state as well as federal, was the underlying theme of this prophetic document."<sup>145</sup>

#### IV. Conclusion :

As was noted at the outset of this chapter, there has been in the past a tendency to idealize the early period in the development of the American public service. Consequently, the attempt here was to emphasize the point, noted in recent historical works, that "our early politicians were realists and the relevance of office to action and to political power was well understood."<sup>146</sup>

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<sup>145</sup>

White. The Jeffersonians, p. 393.

<sup>146</sup>

Van Riper, p. 27.

But while it is necessary to deflate the exaggerations, it is likewise apropos to acknowledge the positive features of the record from 1789-1829.

On the whole, the Federal civil servants during this period were honest and capable. Washington's "fitness" test was adopted with minor variations by the next five Presidents as well, as was reflected in the caliber of the persons recruited. As characterized by Van Riper, "During the formative years of the American national government, its public service was one of the most competent in the world. Certainly it was one of the freest from corruption."<sup>147</sup> By the early Nineteenth Century entrance examinations, on a very limited scale to be sure, were becoming a part of the recruitment process. As White has observed with regard to these initial exams for the medical services in the military, and for entrance to the military academies: "The examinations were taken seriously, and represented the first effort to establish formal standards of competence and character in government circles."<sup>148</sup> Moreover, there was great stability in the public service during this period. Aside from Jefferson's brief "transition" period (1801-03) and in spite of the Tenure of Office Act in 1820, most Federal workers in practice enjoyed tenure during good behavior. In fact, the absence of arbitrary removals was frequently carried to the extreme of absence of any involuntary removals, which led to problems of stagnation and superannuation. Still, with respect to relative competence and stability, the service of this era would measure up fairly well in comparison with merit system standards.

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Ibid., p. 11.

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White. The Jeffersonians, p. 555.

However, other merit principles were evident to only a limited extent, if at all. Equality of opportunity was far from realization. Aside from overt racial discrimination, there were scattered instances of nepotism and personal favoritism. And from the broad perspective, recruitment tended to be limited to the upper socio-economic strata, from the "gentleman" class, as already described. The merit principle of political neutrality, while an overt aspiration, was only imperfectly attained. As the preceding survey of recruitment practices illustrated, partisanship, at least to the extent of having the correct party sympathies, became a virtual prerequisite for appointment to major offices and of increasing importance for minor offices as well. "The closing years of the Republican [Jeffersonian] period showed tension between the established tradition of nonpartisanship in the middle and lesser offices and the increasing<sup>149</sup> insistence of new political leaders for partisan use of public patronage." And once appointed, civil servants were not entirely nonpartisan, as was indicated in the failure of Jefferson's directive for employees to refrain from partisan political activities.

In conclusion, fundamental trends which became accentuated in subsequent years were already emerging in this early period of civil service history. Kaufman has suggested that basic trends were already visible by the end of Washington's Administration:

Civil service reformers of a later generation, looking back on Washington's term of office, tended to depict him as a man untouched by the forces of politics in his management of the public service. It is beyond question

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Ibid., p. 558.



that his unreserved dedication to the welfare of the recently created nation and his exceptional integrity combined to make his administrations worthy of the greatest admiration. But the tendencies that were to become sources of great controversy many years later were already in evidence. The partisan considerations, the preferments for veterans, the maintenance of territorial representativeness (overriding questions of merit), the battles between the legislative and executive branches of the government -- all these made their appearance at the very beginning. They were not abused, as some of them one day would be, but they were not absent by any means.<sup>150</sup>

Another history of the period has emphasized that from the time of the "decision of 1789" public officials recognized the "possible uses to which the executive control over public office could be put, should a strong-minded president be so inclined."<sup>151</sup> And in his study of the National Civil Service League Stewart observed that the potential for the spoils system was present, however, in the development of political parties, the hunger of partisans for power, and the possibility that sooner or later a party President would use the power of appointment and removal in a partisan manner."<sup>152</sup> In the following chapters we trace the continuations of these initial tendencies -- both nascent merit principles and traditional patronage practices -- in the evolution of recruitment policy for the Federal civil service.

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<sup>150</sup> Kaufman, p. 14.

<sup>151</sup> Van Riper, pp. 15-16.

<sup>152</sup> Stewart, Frank Mann. The National Civil Service Reform League. Austin, Texas, University of Texas Press [1929] p. 4.



### CHAPTER THREE

#### PRIME OF THE SPOILS SYSTEM, 1829-1865

The historical period surveyed in this chapter encompasses the Administrations of ten Presidents -- from Andrew Jackson through Abraham Lincoln. The general characterization of this era is usually along the lines of "period of unmitigated spoils."<sup>1</sup> Quotations on the degradation of the public service during this time are legion; for example, Fish has observed that during this era, when the "apogee of the spoils system in the United States" was reached, "the old traditions of respectability had passed away and the later spirit of reform had not arisen; the victors divided the spoils and were unashamed . . . . The presidential election became a quadrennial 'event,' with the civil service as the prize."<sup>2</sup>

But while the maturation of the spoils system constitutes a major theme, one must consider as well instances of continuity and even some improvements with respect to recruitment practices during these years. Leonard White, in his administrative history covering this period, has suggested that there were actually two personnel systems in operation for the Federal civil service:

"one sector partisan, rotating in personnel; the other based in part on examinations and in part on custom, neutral and permanent."<sup>3</sup> The dual nature of the system will be examined at greater length subsequently. But it is useful

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<sup>1</sup>Stahl, O. Glenn. Public Personnel Administration. New York, Harper and Brothers [1956; 4th ed.] p. 17.

<sup>2</sup>Fish, Carl Russell. The Civil Service and the Patronage. New York, Russell and Russell [1963; originally published 1904] p. 158.

<sup>3</sup>White, Leonard D. The Jacksonians. New York, Macmillan Company [1954] p. 315.

to recognize at the outset that the degree of deterioration of the Federal service during the era (and by implication the virtual absence of merit principles), have tended to be exaggerated, even as the virtues of the prior period to 1829 have been overly idealized.

Before turning to a consideration of the spoils system in operation during this period, as reflected in the practices pursued by the respective Administrations, we again commence with a consideration of background factors. The third section then contains a survey of oversight activities with respect to the Federal employees by the Congress and nascent efforts at reform during this period, followed by a brief concluding passage.

#### I. The Setting and Other Background Factors

Although Andrew Jackson has become popularly associated with the founding of the spoils system, various commentaries emphasize that in fact President Jackson "did not originate either of the two major aspects of the spoils system: the application of the 'rotation theory' to appointive officers or the use of patronage for practical political advantage."<sup>4</sup> Rather, as Kaufman has observed:

It is not for originating the [spoils] system nor for egregious-ly immoderate use of it that Jackson is condemned to eternal shame by some well-intentioned reformers. It is for introducing it to the national government on a wider scale than any of his predecessors, and for carrying it out openly -- indeed, proudly -- rather than apologetically and quietly as had been the fashion earlier. By this behavior, he set loose forces that for more than half a century dominated the American national political scene.<sup>5</sup>

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<sup>4</sup>U. S. Civil Service Commission. Biography of an Ideal. Washington, U. S. Govt. Print. Off. [1973] p. 16.

<sup>5</sup>Kaufman, Herbert. The Growth of the Federal Personnel System. American Assembly. The Federal Government Service. Englewood Cliffs, N. J., Prentice-Hall [1965] p. 20.



As noted in the introductory chapter above, when discussing the merit system concept, the practice of patronage dates from time immemorial. And specifically in terms of the American experience, the spoils system had already emerged at the State level. Fish noted that in the period from 1775-1829, the tendencies that "burst suddenly and violently into national politics" had gradually appeared at the State level, particularly in New York and Pennsylvania: "first, the custom of using the public offices openly and continuously as ammunition in party warfare; second, the evolution of the idea of rotation in office."<sup>6</sup>

Here it is necessary to digress briefly for a consideration of the so-called "rotation-in-office" theory, so integral to the underpinnings of the spoils system. Originally the theory related only to elected officials. The rationale was that fixed, relatively short terms would lead to rotation of officeholders, thereby providing for widespread education in local politics; each citizen would have the opportunity and the responsibility to serve as a government official.<sup>7</sup> However, as rotation theory was increasingly adapted to more partisan concerns, it was broadened to include appointive as well as elective positions, and came to be advocated at the national level in this revised form. While the educational motif was retained, the emphasis shifted from widespread citizenship education to education of government officials, by requiring them to retire periodically and thus to allow fresh personnel, assumedly more in touch with the common folk, to serve.<sup>8</sup>

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<sup>6</sup>Fish. *The Civil Service and the Patronage*, p. 79. For a survey of the situation in the respective states, see *ibid.*, pp. 86-104.

<sup>7</sup>Other virtues besides the educational benefits were attributed to rotation practice as well. See *ibid.*, pp. 80-84.

<sup>8</sup>An unpublished Civil Service Commission study, *History of the Federal Civil Service, 1789-1939*, described the transformation of rotation theory as follows:

Meanwhile, there were developments facilitating the adoption of the spoils system at the national level, aside from its growing acceptance in the States. Particularly significant were the expansion of the suffrage and the increasing importance of political parties to organize the voters. As White explained:

The most important influence upon the administrative system during the years from Jackson to Lincoln was the wide enfranchisement of adult male citizens and their organization into a national party system, accompanied by a surge of democratic sentiment that fanned an already active desire for office. . . .

By the 1840's the movement for universal manhood suffrage had run its course. A new political force was thus introduced and a novel practical party obligation -- the task of organizing a mass electorate and directing it toward the polls with correct ideas at the recurring crises of state and national election. This proved to be a task of great magnitude and difficulty, characteristics which fostered the rapid growth of party machines, unparalleled party activity, and a type of practical party politician that, although not hitherto unknown, seemed now ubiquitous. It also proved to be a task requiring large resources for the payment of party workers, and for the first time raised the problem of the proper sources of party funds.<sup>9</sup>

Similarly, Fish observed, "The true cause for the introduction of the spoils system was the triumph of democracy." The enlargement of the electorate brought about a need for an extensive organization to direct popular preferences, which

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"The advocates of the rotation theory believed that all citizens should, by holding office for a period, become educated in the principles of government. This was the practice in ancient Athens, and, to a very great extent, in the early New England townships, in the Dutch government of New York, and in Pennsylvania under William Penn's charter. The advocates of the theory disregarded the fact that there are, in proportion to population, many fewer offices in the Federal service than in the government of a small town or city. No matter how frequently positions are vacated, it never is possible for everyone to have his turn. This became so apparent that the theory was changed to accord more nearly with the facts. It was declared that being out of office gave the politicians a chance to learn the problems of the people. Most used their enforced leisure not to discover what the people wanted, but to search for what they wanted -- another job." [p. 10]

<sup>9</sup>White. The Jacksonians, pp. 11, 12.

in turn created a need for the reimbursement of party workers contributing to this organizational effort. In this context the function of the spoils system "becomes evident; the civil service becomes the pay-roll of the party leader; offices are apportioned according to the rank and merits of his subordinates, and, if duties are too heavy or new positions are needed, new offices may be created." In short, "the spoils system paid for the party organization . . . ."<sup>10</sup> Another related feature of the era, contributing to the acceptance of the spoils system was the fierce and relatively equal competition between the political parties at the national level; it appears not coincidental that "the spoils system was of greatest importance during the period of United States history in which the partisanship of the presidency changed most frequently."<sup>11</sup>

The structure of the Federal civil service and the nature of its activities during this period also facilitated the growing acceptance of spoils practices. One writer, noting that the development of the spoils system was dependent "upon the nature of civil service tasks," provided this overview:

During the period in which the spoils system reached the peak of its importance, government was predominantly laissez-faire, public policy was distributional, and as Jackson indicated, for the most part the tasks of the civil service were relatively plain and simple. By 1860 technological advances had done little to alter the office skills of 1800. However, in those parts of the civil service in which technical knowledge and skills were required the spoils system was less significant.<sup>12</sup>

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<sup>10</sup>Fish, *The Civil Service and the Patronage*, pp. 156-57.

<sup>11</sup>Rosenbloom, David H. *Federal Service and the Constitution*. Ithaca New York, Cornell University Press [1971] p. 54. The factor of alternation in party control of the Presidency during this era is considered in greater detail below.

<sup>12</sup>*Ibid.*, pp. 54-55.

But another characterization, seeking to contrast the state of the civil service in 1830 with the situation in 1789, noted some new features, reflecting the growing diversity of tasks performed by the Federal Government:

By Jackson's time, although the Government service had many fewer duties of a technical and scientific nature than today, it was nevertheless much more complex than 40 years before. Population had grown and wealth increased. Administration of new territories, sale of public lands, handling the Indian problem; the custody and expenditure of revenues; expert appraisal for customs duties of the great variety of goods imported from Europe; granting of patents, requiring thorough knowledge of both the law and numerous sciences involved; designing and minting of coins; the beginning of scientific research in agriculture; all these and a multitude of others were functions of the Federal Government in Jackson's Administrations which required employees both trained and experienced.<sup>13</sup>

During this period there was considerable expansion in the number of Federal civilian employees, both in relative and absolute numbers (see Table I, p. ). The increasing size of the Federal service, combined with the effects of rotation-in-office and patronage practices (dual components of the spoils system) served to alter the dividing line between "politics" and "administration" within the Executive Branch. As White has correctly noted, democratic government requires a blending of these factors and cooperation between the respective personnel. In the early years this presented little problem for the functioning of the Federal service; since both political and administrative officials tended to be drawn from the same social group of gentlemen, cooperation came naturally. White offered this discussion of the initial practice and of changes after 1829:

Where to draw the line between the two sectors of the public service had never been precisely defined, and fluctuated from time to time. From 1789 - 1939 the political sector comprised hardly more than the four department heads: State, Treasury, War, and Navy. The Post Office was politically neutral, the chief accounting

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<sup>13</sup>U. S. Civil Service Commission. History of the Federal Civil Service, 1789-1939. Typed report [1939] p. 22.



officers were career men, and the heads of such agencies as the General Land Office, the Patent Office, the Indian Office, the Pension Office, and the mint were concerned with executive duties, not with election.

After 1829 the line was drawn differently, although the change was not abrupt. Heads of departments became more obviously political personalities, in the sense of participating actively in elections. The commissioners in charge of a number of important offices were more frequently chosen on the basis of political considerations.<sup>14</sup>

One attempt at differentiating between the two sectors via formal definition at this time was provided in the 1842 Report of the Gilmer Committee.<sup>15</sup> The Report drew a distinction between policy-level or political Executive Branch officials and "mere ministerial" officers. White observed regarding the relevant passage in this Report:

The former [policy-level officers] were described as those who stood in the confidential relation of advisers to the President, who 'under the laws, have a discretion which may be employed to aid or to defeat the political policy of an administration.'<sup>16</sup> The ministerial level remained undefined and indeed undescribed.

In any event, the political sector came to encompass more officials. The growing politization of higher administrative posts after 1829 was not entirely a matter of partisanship, however. As the function performed by the Federal Government increased, a growing number of officials exercised authority of direct relevance to policy. The principle of desiring political loyalty from such policy-makers was articulated by President Polk in 1848, upon removing a U. S. Attorney of the opposing party: "I did so upon the general principle that the important subordinate public offices should be filled by persons who agreed

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<sup>14</sup>White. The Jacksonians, p. 347.

<sup>15</sup>House Report 741, 27th Cong., 2nd sess. [May 23, 1842]. The Gilmer Report is discussed in section III below.

<sup>16</sup>White. The Jacksonians, p. 395.

in opinion with the President as to the policy to be pursued by the Government."<sup>17</sup> This dilemma of where to draw the line between administrative and policy-making positions has remained a topic of continuing debate through the years.<sup>18</sup>

During this period personnel management in the Federal Government remained rudimentary. For example, the situation with respect to tenure versus turnover of employees continued to be a formally unregulated matter. However, with the growing adherence to spoils principles, the number of removals **increased greatly** (as is surveyed in the next section). The general circumstances regarding the status of removals at this time has been characterized as follows:

Authority to remove subordinate personnel was unregulated either by law or by presidential order. No officer or employee had protection against the arbitrary exercise of the removal power, and the influence of rotation and partisanship made the act of removal a common practice. . . .

When, however, removal was for cause reflecting upon the character of the employees, heads of departments were mindful of the rules of fair play that had hitherto prevailed.<sup>19</sup>

And although heads of departments usually had the formal authority to appoint clerks and other inferior officers under their jurisdiction and while there was some delegation to the field agents for the appointment of employees to serve under them, the President tended to function as chief personnel officer. White described this situation as follows:

In substance the President was the chief personnel officer of the government during the Jacksonian period. There was, in fact, no alternative. All the different matters involving the approximately fifty thousand officers and employees [both military and

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<sup>17</sup>The Dairy of James K. Polk During His Presidency, 1845-1849. Milton Quaife, ed. Chicago, A. C. McClurg and Co [1910], IV, p. 114 (Sept. 1, 1848).

<sup>18</sup>With respect to the evolution of the merit system, this issue has been of relevance in attempts to justify the exclusion of certain positions from the competitive requirements.

<sup>19</sup>White. The Jacksonians, p. 405.

civilian] tended to come to the President's desk, especially when the problem involved political considerations. The Chief Executive was consequently busily engaged in appointments and less frequently in removals, in cases of discipline, and by law in the review of the decisions of military and naval court-martials. No other officer of the government had a responsibility for personnel matters of a service-wide nature, and indeed the public service had hardly acquired a sense of corporate unity. It remained still a body of departmental clerks and agents, responsible to the individual Cabinet members. *The President was the single official having some responsibility for the whole service.*<sup>20</sup> [Italics added.]

From the statements of the various Presidents as well as other contemporary commentaries, the conclusion emerges that inordinate amounts of a President's time in the mid-nineteenth century were devoted to personnel matters. But while this endeavor proved "time-consuming and often disagreeable," it was simply "too important to be ignored."<sup>21</sup>

## II. Recruitment Practices

The election of Andrew Jackson in 1828 ushered in a new era. According to one writer, Jackson "achieved a bloodless revolution, opening the way to democratization of the political process by making that process accessible to great segments of the population previously excluded."<sup>22</sup> These events of course had important ramifications on recruitment practices in the civil service. It seems significant to note that a broad spectrum of the public supported rotation theory. White has observed that "rotation was imposed because it was demanded from below, not merely because it was advocated from above."<sup>23</sup> In his classic

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<sup>20</sup>Ibid., p. 72.

<sup>21</sup>Ibid., p. 74.

<sup>22</sup>Kaufman, p. 21.

<sup>23</sup>White. The Jacksonians, p. 301.

study, Fish surveyed editorials, following Jackson's election, and found many in support of widespread removals; on this basis Fish observed that if these had not provided sufficient evidence of the popular expectations, the masses of hopeful office-seekers crowding into Washington for Jackson's inauguration should have proved convincing.<sup>24</sup>

Jackson's formal statement of policy regarding recruitment occurred during his first annual message, in December of 1829. In this classic defense of rotation theory, he suggested that the duties of public officers were relatively simple and required little preparation, and thus he concluded: "I can not but believe that more is lost by the long continuance of men in office than is generally gained by their experience."<sup>25</sup> No mention was made of the implications of rotation for party fortunes or presidential power; White has speculated that

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<sup>24</sup>Fish. *The Civil Service and the Patronage*, pp. 106-110. Fish wrote, in part:

"If Jackson had really hesitated as to the advisability of adopting a proscriptive policy, the demonstration at Washington on the occasion of his inauguration must have been a convincing argument in favor of it....

"What happened at the executive mansion was so dramatic that it has been described at length by all the writers of the period. The wild stampede to the White House; the crowding round and crushing of the president, indicative of a new familiarity between the people and the government, to the immediate detriment of both; the mad scramble for the good things -- the cakes and ices and orange punch served out in lavish style, but wasted through careless distribution: all these scenes are not picturesque only, but are also emblematic." (pp. 109-10)

<sup>25</sup>Richardson, James D. *A Compilation of the Messages and Papers of the Presidents, 1789-1910*. New York, Bureau of National Literature [1911] II, pp. 448-49 (Dec. 8, 1829). See Appendix for entire excerpt of this message as related to recruitment matters.



Jackson would have denounced the abuses which followed, had he foreseen them, because he was "a man of rigid integrity."<sup>26</sup> According to another writer, Jackson thought that a system of rotation-in-office could serve three functions:

First, it could destroy the concept of property in office and reduce the importance of the upper social classes in American politics. Second, it could provide a rationalization for the many civil service removals Jackson, who was the first president since Jefferson to be elected in opposition to an incumbent administration, would find it politically desirable to make. Finally, it could solve the problems of disability and superannuation in the civil service, which were caused by the reluctance of presidents and appointing officers prior to 1829 to make removals.<sup>27</sup>

In terms of actual number of removals resulting, evidence indicates that although the scope was unprecedented, in percentage terms it represented a rather small segment of the Federal service of that day:

An early reckoning of gains and losses, which is generally accepted as the most reliable indication of the number of removals during the months when they were in full swing was published in the Washington Telegraph on September 27, 1830. . . . These figures showed a total of 919 removals out of 10,093 officeholders or somewhat less than 10 per cent.<sup>28</sup>

Fish has described the initial difficulties in implementing the rotation policy; it took time to perfect the distributional machinery necessary for the scope of the personnel turnover within a brief timespan. Jackson's independence, even from other leaders of his party, and the frequent opposition of the Senate strained "such crude machinery as did exist for distribution of offices" and thus "made it impossible for the leaders of the party to use the patronage with

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<sup>26</sup>White. *The Jacksonians*, p. 319.

<sup>27</sup>Rosenbloom, p. 48.

<sup>28</sup>White. *The Jacksonians*, pp. 307-08.

the best possible effects." But two principles apparently controlled appointments "when Jackson was tractable and the Senate tired of opposition." First, a new generation came in with Jackson, "bringing fresh blood and strange manners into the civil service." Second, the criteria of competence was not discarded, but it was defined rather differently. According to a quotation which Fish attributes to Martin Van Buren, the Jacksonians sought practical and intelligent men "whose capacities are adapted to the discharge of the public business, whether they might, or might not, shine in the composition of essays on abstract and abstruse subjects."<sup>29</sup>

In 1836 Van Buren assumed the Presidency, after serving as Vice President during Jackson's second term. Previously Van Buren had headed the New York State patronage apparatus, the so-called Albany Regency, and during Jackson's administration he had exercised considerable indirect influence over appointments.<sup>30</sup> Initially, Van Buren made relatively few removals, since so many of the incumbents were favorable, some of them actually picked by him for Jackson. However, by 1839-40, when Van Buren was looking toward a second term, his actions suggested "that a new rule of personal allegiance, as well as party membership, was to be required of officeholders."<sup>31</sup>

The election of 1840 proved crucial to the evolution of the civil service. "Reform" had been espoused as a campaign issue by the Whigs, who had opposed the spoils system during the administrations of Jackson and Van Buren (see discussion in following section). Initially Harrison announced that he did not want employees removed solely for the sake of opinions held, but the matter shortly became

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<sup>29</sup>Fish. *The Civil Service and the Patronage*, pp. 307-08.

<sup>30</sup>*Ibid.*, p. 34.

<sup>31</sup>White. *The Jacksonians*, p. 309.

the topic of significant discussion within the Cabinet. Meanwhile, by 1841 some 2,800 miles of railroad track was in service, which facilitated travel to Washington; an "estimated 30,000-40,000 office seekers swarmed into Washington" looking for positions, following the Whig victory.<sup>32</sup> Even though important Whig leaders were probably reluctant, during March of 1841 the Cabinet apparently decided to proceed with large-scale removals. As has been observed, "Prior to Harrison's election, the Whigs had opposed the spoils system, but during the Harrison-Tyler administration the largest numbers of removals up to that time were made."<sup>33</sup>

President Harrison's attitude toward the spoils system was actually rather ambivalent. He apparently favored rewarding his political friends with government jobs, but at the same time opposed political activities by public employees. The constant pressure of the job-seekers exhausted Harrison (who was almost seventy), and he fell ill in the third week of his term and died during the fourth. "The official certificate gave pneumonia and general weakness as causes of death, but the opinion of many historians is that the real cause was the spoils system. . . ."<sup>34</sup>

During his short tenure Harrison did circulate an order to his Cabinet Members, calling for a prohibition on certain political activities and assessments by the rank-and-file employees, which stated in part that Federal employees "are not expected to take an active or officious part in attempts to influence the minds or votes of others, such conduct being deemed inconsistent with the spirit

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<sup>32</sup>History of the Federal Civil Service, p. 28.

<sup>33</sup>Rosenbloom, p. 55.

<sup>34</sup>Biography of an Ideal, p. 22.

of the Constitution. . . ."35 This effort proved as ineffective as Jefferson's directive on the same topic some decades earlier. On ascending to the Presidency, Tyler felt an obligation to carry out Harrison's plan and in his first annual message recommended that Congress "legislate to restrict political removals." However, his falling out with the Whig leadership apparently ended his attempt in the direction of reform.<sup>36</sup>

In commenting upon the reversal of policy between the Whigs in opposition and the Whigs in control of the Presidency, Fish lamented, "It was a fundamental weakness of the civil service as established in the United States at that time, that when one party had begun to turn out its opponents, its successors were almost forced to do the same."<sup>37</sup> Fish also noted that in 1841, for the first time, many officers resigned to escape formal removal. Moreover, the proscription "extended, as was customary, beyond the presidential offices into the departmental and local offices." However, this commentary further suggested that while the Whigs used similar methods of selection as had the Democrats, the caliber of employees improved somewhat; this he attributed to the fact that the Whigs drew "from the wealthier portion of the population, and so commanded a greater share of business ability." So, Fish continued,

The fact that the offices were better executed [under the Whigs] and the public served than previously proves, not that the spoils system was non-existent, but that it is not absolutely synonymous with bad service; that efficiency depends more on the characteristics of the men appointing and appointed to office than on the method of selection.<sup>38</sup>

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<sup>35</sup>Cited by White. The Jacksonians, p. 338.

<sup>36</sup>History of the Federal Civil Service, p. 30.

<sup>37</sup>Fish. The Civil Service and the Patronage, p. 144.

<sup>38</sup>Ibid., pp. 150-51.



The subsequent alternation in party control of the Presidency during the next two decades fostered a continuation of the pattern. As White has cogently observed with respect to the duration of the spoils system:

The years immediately succeeding the departure of Andrew Jackson from Washington were, therefore, crucial. A long period of political stability might have reproduced the Jeffersonian tradition. This happy circumstance was not to occur. The Whigs carried the 1840 election; the Democrats returned in 1844 only to be thrown out again in the election of 1848. The Whigs lost in 1852 and it was not until then that the Democrats were able to remain in office for two consecutive terms. They were defeated in 1860 by a new national party that had never held the presidency. *No sequence of events could have been more conducive to coerce party leaders to apply the doctrine of rotation.*<sup>39</sup> [Italics added.]

Spoils practices continued, then, under Polk, Taylor, Fillmore, Pierce, Buchanan and Lincoln. Polk had expressed his approval of the system prior to his election and during his Administration "the most extensive conscription yet seen took place, in spite of the fact that Polk succeeded a President favorable to him who had already filled many positions with their mutual adherents."<sup>40</sup> During Taylor's one year in office, almost a third of all Federal employees either resigned or were removed. According to Fish, during 1849-50 there were 2802 resignations and 3406 removals, out of a total civil service of 17,780.<sup>41</sup> Commenting upon the situation in 1849, Seward, later to serve as Secretary of State under Lincoln, observed in a letter: "The world seems almost divided into two classes: those who are going to California in search of gold, and those going to Washington in quest of office."<sup>42</sup>

When Buchanan succeeded fellow Democrat Pierce in 1857, the epitomy of the spoils system was reached. Pierce, having overseen numerous removals, "thus practically exorcising all non-Democratic elements from the civil service," had

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<sup>39</sup>White. The Jacksonians, p. 315.

<sup>40</sup>History of the Federal Civil Service, p. 30.

<sup>41</sup>Fish. The Civil Service and the Patronage, p. 163.

<sup>42</sup>Cited in Biography of an Ideal, p. 24.

vied with Buchanan for the party nomination in 1856. Following his inauguration, Buchanan decided that the the civil service thus should be remanned, and "announced that no one should, unless under exceptional circumstances, receive a reappointment after his commission expired."<sup>43</sup> So now rotation applied even to factions within the same political party. Buchanan's action was subjected to criticism, well illustrated by a New York Herald editorial of 23 March 1857:

It is said that that sarcastic old statesman W. L. Marcy, on hearing that the policy of rotation in office had been resolved upon by the new [Buchanan] Administration, dryly remarked, 'Well, they have it that I am the ~~author~~ of the office seeker's doctrine, that "to the victors belong the spoils," but I certainly should never recommend the policy of pillaging my own camp.'<sup>44</sup>

Abraham Lincoln's policies presented a mixture of idealism and realism with respect to the civil service. Although Lincoln personally disliked the spoils system, he was an experienced politician of his time and adroitly manipulated patronage in an effort to solidify the new Republican Party and to obtain cooperation from the Congress. Lincoln removed<sup>1,457</sup> of the 1,639 presidential officers directly appointed by him (with the advice and consent of the Senate), almost twice the number removed by Pierce who held the previous "record."<sup>45</sup> In short, Lincoln "accepted conditions as they were, and turned the spoils system into an instrument to gain and keep the political support he needed in the emergency he faced."<sup>46</sup> As Van Riper has observed, "The only thread of consistency in the executive appointing policy during the years from 1861 to 1865 seems to have been the practical one of preservation of the Union via preservation of the

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<sup>43</sup>Fish. The Civil Service and the Patronage, p. 166.

<sup>44</sup>Cited in White. The Jacksonians, p. 314.

<sup>45</sup>Fish. The Civil Service and the Patronage, p. 170.

<sup>46</sup>Biography of an Ideal, p. 27.

Republican party."<sup>47</sup> Various commentators have suggested that the pressure of the hopeful throngs in Washington was so incessant as to impede the conduct of the Civil War; the following passage is typical:

During the Lincoln Administration, pressure by jobseekers constituted a serious interference with the prosecution of the Civil War. So brazen were their importunities that they actually invaded the executive mansion itself. Histories of the era make frequent reference to the problem (and Lincoln's vexation); they paint a ludicrous picture of the President's having to elbow his way through crowds of jobseekers clamoring for his attention in the White House corridors when he was en route from his office to dinner. Once, when Lincoln was suffering from an attack of smallpox, he asked an assistant to invite the jobseekers in, for at last he had something he could give to all of them.<sup>48</sup>

Following Lincoln's reelection, there were suggestions that the rationale of rotation ultimately dictated a turnover of personnel every four years, even if a President succeeded himself. But Lincoln announced that the personnel in his Second Administration would remain unchanged, thereby quelling the speculation. As Fish noted, "From that time the popularity of rotation declined. The tide had turned."<sup>49</sup>

During this period (1829-1865) the rule of apportionment among the various States of the clerkship positions located in Washington become more formalized. As was described in the preceding chapter, from the outset geographic considerations were taken into account in making appointments. Positions in the field service were traditionally filled by local residents, and some attention was focused on achieving a rough equality among the States in terms of positions in

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<sup>47</sup>Van Riper, Paul P. History of the United States Civil Service. Evanston, Illinois, Row, Peterson, and Company [1958] p. 43.

<sup>48</sup>Harvey, Donald R. The Civil Service Commission. New York, Praeger [1970] pp. 5-6. It should be noted that the military forces as well as the civilian service was subject to patronage considerations, as reflected in the notorious "political generals."

<sup>49</sup>Fish. The Civil Service and the Patronage, p. 172.

the District of Columbia. As an illustration of this perspective, Polk noted, in private correspondence, that the "locality of the applicants and geographic considerations are constantly urged."<sup>50</sup>

In 1852 the rule of apportionment was formally proposed in the Congress. An amendment to an appropriations bill offered by Representative Samuel Brenton provided, in part, "And in the selection of said clerks [in the Departments at Washington], they shall, as far as practicable, be taken from the several States and Territories, in proportion to the number of Senators, Representatives, and Delegates from each in the Thirty-third Congress."<sup>51</sup> The amendment failed, but the apportionment idea was generally received with favor in the Congress, since Members stood to gain more positions for constituents, while the "losers" would be primarily the clerks already resident in the District.<sup>52</sup>

In May of 1853 the Secretary of the Interior, Robert McClelland, announced that clerkships in his Department "would be distributed among the States in proportion to their representation in Congress." In August he wrote to his colleagues in various other Departments, requesting a break-down of their clerks by State (and also salary), with the explanation that this information was necessary to determine the appropriate distribution in the Interior Department. But the practice became widely followed elsewhere as well. White provided a citation of a timely editorial appearing in 1853:

The Baltimore Sun gave away the inside situation. 'All officers,' it declared, 'are, in fact, at the disposition of members of Congress, and they cannot retain control of them as well by a general scramble as by a fair distribution. They have insisted upon the establishment

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<sup>50</sup>Cited in White. The Jacksonians, p. 397.

<sup>51</sup>Congresional Globe, 32nd Cong., 1st sess., p. 2189 (August 11, 1852).

<sup>52</sup>White. The Jacksonians, pp. 397-98.

of the rule that the clerkships shall be distributed among the States in proportion to their federal numbers.' The rule of apportionment settled into a permanent feature of the personnel system.<sup>53</sup>

Having sketched in brief the development of the spoils system in the Federal civil service, we now turn to the consequences of the system -- the negative as well as positive ramifications along with manifestations of underlying continuity. The "evils" of the spoils system are sufficiently familiar as to require minimal elaboration. White has highlighted three particularly detrimental features of the system: loss of efficiency, loss of prestige, and political obligations for Federal workers. Clearly the frequent turnover of personnel and the constant influx of inexperienced replacements led to inefficiency in administration, as did the selection of officials primarily on the basis of political loyalties rather than individual competence. The resulting instability in various operations, as well as insecurity for the individual worker, likewise contributed to the decline in prestige of the public service.<sup>54</sup>

Particularly unfortunate consequences of the spoils system were the various forms of political obligations imposed on the Federal worker. Prior to 1829 such practices had been a relatively rare occurrence, although they were becoming more common in cities such as New York and Philadelphia. But, as White explained, after 1829 civil servants "were progressively brought under the dominion of the local party machine and subjected to various party requirements as a condition of continuing their employment."<sup>55</sup>

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<sup>53</sup>Ibid., p. 398.

<sup>54</sup>Ibid., pp. 327-332.

<sup>55</sup>Ibid., p. 332.



An increasingly pervasive obligation was that of the party assessment. As the national convention system (with the accompanying tiers of delegate elections -- city, State, and national) came to replace the congressional caucus as the mechanism for selecting the party's candidates for President and Vice President, along with the expansion of the suffrage and the necessity for the party to organize the newly enfranchised, fund raising for the party became an overriding concern. An early technique was to "invite" subscriptions to a party newspaper, but by the 1830's the "taxing" of an officeholder's salary for party expenditures was becoming common. A congressional investigation of a scandal involving the collectorship of the port of New York revealed details of the system as it operated in that customhouse. The assessment was prorated, according to salary, up to a proportion of six percent, and the Democratic Central Committee in the State kept detailed records of an individual's assessment and payments. The Committee's Report denounced these assessments and pointed to

its direct tendency to reduce public office to the degraded character of merchandise, to be bought and sold to subordinates by a regulated annual stipend, and to demoralize and prepare the mind of incumbents of office for acts of speculation and plunder upon the public revenues, there is no doubt remaining in the judgment of the committee.<sup>56</sup>

But despite such declarations, Congress took no action and exclusive directives (such as Harrison's order prohibiting political assessment and activity on the part of civil servants) were ineffective. In short,

The party had fastened upon a lucrative and dependable source of income and did not intend to forego its advantage. So far as the law was concerned, party assessments were perfectly legal until reform began its course after the Civil War.<sup>57</sup>

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<sup>56</sup>House Report 313, 25th Cong., 3rd sess., p. 249 [1839]. Cited by White. The Jacksonians, p. 334.

<sup>57</sup>Ibid., p. 337.

And there were other political obligations aside from the financial assessments. Active participation by Federal employees in political campaigning became increasingly expected. Rank-and-file workers were often involved in election day work, while higher officials such as customs collectors, postmasters, and district attorneys often were active in State parties. In fact, persons frequently held dual offices -- in the public service and in the party organization; the party thus could establish "a sort of personal union with the government, a union which at once raised difficult questions about primary loyalty and obligations."<sup>58</sup> To be sure, the problem of reconciling the individual rights of public employees to political participation with the need for an impartial public service was raised during this era, but far from resolved.<sup>59</sup> Finally, the political obligation of an employee could ultimately result in the loss of an independent vote.<sup>60</sup> The penalty for refusing to follow instructions from a superior might result in "immediate discharge for political insubordination."<sup>61</sup>

While the negative consequences of the spoils system probably far outweighed any positive contributions, these latter features should nonetheless be noted. First, the system led to greater democratization in the public service. That rotation practice sought to destroy any lingering notions of a property right to office was noted above. Moreover, the system brought into the Federal service persons who came from a broader social and economic base than had been the case

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<sup>58</sup>Ibid., p. 340.

<sup>59</sup>Ibid., pp. 337-42.

<sup>60</sup>The Australian secret ballot was not adopted in the various States until the period from 1887 to 1900. See: Harris, Joseph H. *Election Administration in the United States*. Washington, Brookings Institution [1934] pp. 150-54.

<sup>61</sup>White. *The Jacksonians*, p. 342.

previously. By the 1820's among the common people there was growing resentment over the increasingly upper class, aristocratic complexion of the civil service.<sup>62</sup> The democraticization thus furthered the merit principle of equality. As one writer has noted, the spoils system thereby increased "equality of access to civil service positions by seeking characteristics in appointees which were not confined largely to members of the upper social classes"; but at the same time it promoted "inequality of access based on partisan affiliation and standing."<sup>63</sup>

A second contribution of the spoils system, in the context of the times, was its function as a recruitment mechanism. As has been noted already there was considerable expansion of the Federal service during this period while the framework for personnel administration was almost nonexistent. Van Riper has pointed out, against this background, that the spoils system "provided a much needed channel for the recruitment of personnel for the rapidly expanding national government," an "important managerial function for which it has seldom been given due credit."<sup>64</sup>

Finally, there is the connection between the patronage aspect of the spoils system and the evolving political party organizations as well as with institutional relationships. Clearly the emergence of the spoils system was related to the development of mass-based political parties, following the expansion of the suffrage in the early nineteenth century, as was described above under consideration of background factors. To the extent that the "resources" thus provided were

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<sup>62</sup>Kaufman, pp. 19-20. Recall that the fitness criteria, with the frequent emphasis on advanced education then available mainly to the wealthy, contributed to this situation; see discussion in chapter 2 above.

<sup>63</sup>Rosenbloom, p. 56.

<sup>64</sup>Van Riper, p. 44; see also pp. 50-51.

essential at the time for the development of political party organizations needed to channel the "new democracy" of Jackson and his successors, one might suggest positive benefits of the spoils system. In other words, if one accepts the desirability of nurturing political competition within the framework of a two-party system as a component of American government, then the spoils system appears to have contributed in a positive way toward this objective, despite certain negative consequences (as outline above) following in its wake as well. One writer has listed six general functions performed by patronage: (1) maintaining an active party organization, (2) promoting intra-party cohesion, (3) attracting voters and supporters, (4) financing the party and its candidates, (5) procuring favorable government action, and (6) creating party discipline in policy making.<sup>65</sup> The spoils system during the period from 1829 to 1865 seemed to perform several of these functions, thereby strengthening the party system.<sup>66</sup> The sixth function -- creating party discipline in policymaking -- was of particular importance to the nineteenth century President with respect to his relations with the Congress:

In a political system rent by federalism and the separation of powers, some means had to be found to bridge at least some of the gaps in this dual division of authority. Otherwise nothing might be accomplished. It is not too much to say that one of the few major forces which lay at the command of a nineteenth century president who wished to think and act in terms of national rather than local interests was the power of the patronage. From 1829 on, public offices became recognized pawns in this as well as other political bargaining processes.<sup>67</sup>

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<sup>65</sup>Sorauf, Frank J. The Silent Revolution in Patronage. Public Administration Review, v. XX (Winter 1960), pp. 28-29.

<sup>66</sup>Some contend that patronage is no longer necessary, while others argue that some patronage is essential to the operation of the American party system; we return to these considerations in the final chapter. See Sorauf and also: Mansfield, Harvey C. Political Parties, Patronage, and the Federal Government Service. American Assembly. The Federal Government Service, pp. 114-162.

<sup>67</sup>Van Riper, p. 49.

But the analysis of the operation of the spoils system and its consequences does not tell the whole story regarding recruitment policies from 1829-1865. As noted at the outset of this chapter, the old system was not totally destroyed, but rather a dual structure prevailed:

Two personnel systems were thus in operation in the public service. The patronage system held the public attention, but it was primarily the career system that enabled the government to maintain its armed forces, to collect its revenue, to operate its land system, to keep its accounts and audit its expenditures.<sup>68</sup>

To be sure, there were removals at various levels in the public service during this period; loss of tenure was not limited to high officials. "Humble clerks, customhouse weighers and measurers, Indian agents, messengers suffered the same fate. . . ."<sup>69</sup> Still, important segments of the old system were retained. For example, auditors tended to be drawn from the permanent service, as did the chief clerks, "the pivot on which daily business turned."<sup>70</sup> Scientific and technical offices, such as the Coast Survey, the Naval Observatory, and the Smithsonian Institution "were recognized as tenure offices" throughout the period.<sup>71</sup> As White has observed with regard to the remnants of the permanent service which survived the rotation period:

It [permanent service] was saved, however, by the hard necessities of administration, by the sheer need to get things done. Department heads did not have the grasp on daily business, on routine and procedures, and above all on precedent that would enable them to handle departmental business without the aid of men who knew the precedents, who were familiar with the flow of work, and who could be counted on to avoid the errors and misjudgments of novices. Amidst the clamor

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<sup>68</sup>White. *The Jacksonians*, p. 362.

<sup>69</sup>*Ibid.*, p. 348-49.

<sup>70</sup>*Ibid.*, p. 352.

<sup>71</sup>*Ibid.*, p. 357.



for removals and partisan appointments to resulting vacancies, a hard core of experienced men consequently remained steadily at work. The evidence concerning their existence has been overlooked and as a result the evils of the rotation system, bad as they were, have been overemphasized. <sup>72</sup>

Also, it should be noted with respect to the limits of deterioration in the public service during this period that considerations of competence were not entirely absent, albeit usually tempered by the prerequisite of partisanship. As White observed, neither the Democrats nor the Whigs "welcomed scoundrels or irresponsibles in public office;" rather, both parties preferred "men of integrity and skill and steadily sought for them among the ranks of their party friends." <sup>73</sup>

### III. Activity in Congress

The Congress as well as the President were very much concerned with matters relating to the Federal service during this period. We turn now to an examination of the various Congressional roles -- in promoting the patronage, in oversight and investigations, and in nascent efforts at reform.

As discussed previously, the control of appointments had provided an early arena of struggle between the Executive and Legislative Branches. From the time of Washington, Presidents found it informative and politically prudent to consult with Members of Congress regarding appointments, particularly in the field offices; however, prior to the Jacksonian era such recommendations "carried weight but were not decisive." <sup>74</sup> After 1829 various factors already

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<sup>72</sup>Ibid., p. 349.

<sup>73</sup>Ibid., p. 344.

<sup>74</sup>Ibid., p. 105.

surveyed -- the practice of rotation, increasing number of Federal offices, and the development of political party organizations -- resulted in heightened Congressional interest in and influence over Federal appointments at all levels. With regard to the so-called presidential officers (those requiring confirmation), there were noteworthy battles with the Senate, especially under Jackson. In such instances debate sometimes branched out from the specific nominee at hand to a broad consideration of appointment and removal powers and general issues of personnel policy; here Executive prerogatives tended to be retained (this issue is considered in the following discussion on oversight and investigations below). During this period, with respect to the inferior officials, Congressional power vis-a-vis the Executive Branch was augmented. As Fish noted, "Members of Congress had from the beginning been influential in suggesting names; but as appointments came to have greater political significance, they came to speak with greater authority -- that is, if they belonged to the party in power." <sup>75</sup>

Congressional involvement was integral to the functioning of the spoils system. One writer goes so far as to list "Congressional dictation" of most civil service appointments as a major principle of the spoils system (on par with rotation of officeholders and appointments primarily for partisan reasons).<sup>76</sup> At the least most Members of Congress were tolerant, if not actually favorable, to the system, despite periodic investigations of its excesses and pious calls for reform.<sup>77</sup> Van Riper has observed that Congress provided a major contingent

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<sup>75</sup>Fish. *The Civil Service and the Patronage*, p. 173.

<sup>76</sup>Hoogenboom, Ari. *Outlawing the Spoils*. Urbana, Illinois, University of Illinois Press [1961] p. 4.

<sup>77</sup>*History of the Federal Civil Service*, pp. 30, 31.

of the "political middlemen who served as patronage brokers." While the President and other Executive Branch officials might delegate segments of the patronage to a variety of State and local officials and party bosses in return for partisan support, "for constitutional as well as practical reasons, the bulk of the most attractive patronage posts gravitated into the hands of the legislative members of the party in power."<sup>78</sup>

Evidence of the increasing participation by and influence of Congress with respect to appointments of inferior officers is contained in letters of Levi Woodbury, Secretary of the Treasury under both Jackson and Van Buren, which have been analyzed by Leonard White.<sup>79</sup> Woodbury, following previous practice, apparently requested advice regarding prospective employees from Members of Congress and sometimes asked for nominations for specific positions. Moreover, unsolicited recommendations from Congress greatly increased. According to White, the letters "demonstrated a tendency for Congressmen to take greater initiative in making recommendations for appointments." A form letter was devised by the Treasury Department for routine acknowledgement of such applications forwarded by Congressmen. When there was special interest in a particular protege, sometimes the "whole state delegation acted as a unit" and "protracted negotiations" concerning the possible placement followed. In other ways the Treasury Department demonstrated a certain deference to the Congress with respect to appointments during this period. For example, Members were allowed access to the files relating to applications for a particular position located in their State or district, and were often consulted regarding any objections to the reappointment of incumbents. Overall, the contents of

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<sup>78</sup>Van Riper, p. 48.

<sup>79</sup>White, *The Jacksonians*, pp. 115-18.

the letters suggested to White a "change in the character of relationship rather than strange and unknown events" with respect to the evolving rivalry between the Congress and the Executive Branch over the control of appointments. The evidence "demonstrates that Congressmen were demanding a greater share in the appointment of the inferior officers." White continues:

The Constitution and the law were unchanged, but custom was being altered. The Treasury letters from 1829 to 1841 do not, however, lead one to conclude that executive discretion in these appointments has been surrendered. They do demonstrate that beneath the partisan battle over presidential offices there was ample cooperation between the executive branch and its party friends in Congress by which their mutual interests were advanced. <sup>80</sup>

The Diary kept by President Polk during his Administration constitutes another valuable source of information on personnel practices during this period. While Polk regularly consulted with the Members of State delegations regarding particular positions, his patience was taxed by the constant stream of uninvited Representatives and Senators, coming to the White House in person to seek jobs for their friends or relatives. At the end of his first year in office such pressures had not receded, which led Polk to exclaim in his Diary, "I most sincerely wish I had no offices to bestow."<sup>81</sup> Later in his term, in 1848, he described the visit of two disgruntled Congressmen:

It is one of the many instances which have occurred in my administration to show the importance which is attached by members of Congress to petty offices. Indeed many members of Congress assume that they have the right to make appointments, particularly in their own states, and they often, as in this case, fly into a passion when their wishes are not gratified. <sup>82</sup>

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<sup>80</sup>Ibid., pp. 117-18.

<sup>81</sup>Polk, Diary, I, p. 261 [March 4, 1846].

<sup>82</sup>Ibid., IV, pp. 28-29 [July 26, 1848].

Another major problem recounted by Polk was the practice (mentioned in the last chapter) of Congressmen seeking positions in the Executive Branch for themselves. The frequency of such importuning apparently led Polk to write:

The passion for office among members of Congress is very great, if not absolutely disreputable, and greatly embarrasses the operations of the Government. They create offices by their own votes and then seek to fill them themselves. I shall refuse to appoint them...because their appointment would be most corrupting in its tendency.<sup>83</sup>

In a variety of situations, then, Members of Congress and the President (along with his Department heads), bargained over "appointments to office, high and low." According to White, the "most important new element" injected into such negotiating over appointments during this period was "the impact of the political party, the success of whose local organizations seemed to depend much more on securing office, contracts, and favors for their members than on campaigning over disputed issues of statesmanship."<sup>84</sup>

While there was thus a considerable degree of acceptance of the spoils system in the Congress, reflecting the perceived mutual benefits accruing to the President and the Members of his party in Congress through its continued operations, criticism of the spoils system as applied to inferior offices was not entirely absent. And particular controversy ensued with respect to the major nominations submitted to the Senate for confirmation. Not surprisingly, the Members of Congress opposing the party of the President tended to be among the most vocal advocates of "reform."<sup>85</sup>

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<sup>83</sup>Ibid., I, p. 483. [June 22, 1846].

<sup>84</sup>White. The Jacksonians, p. 123.

<sup>85</sup>Ibid., pp. 320-324.



Because of the number of removals initially made by Jackson, there were many vacancies to be filled. However, party division in the Senate was almost equal, and the slight margin of the Jacksonian Democrats frequently did not hold up. Thus Jackson experienced repeated confirmation battles with the Senate over his nominations.<sup>86</sup> Although some nominees were rejected, "The opposition soon saw the futility of thus cutting off nominations in detail, and sought to devise some general bulwark to protect such of their friends as still remained in office, and to put a limit to the power of the executive."<sup>87</sup> As an example of such efforts, there was the resolution, sponsored by Senator Ewing in January of 1832, "alleging that the practice of removing public officers for any reason than securing the faithful execution of the laws was hostile to the spirit of the Constitution, prejudicial to the public service, and dangerous to the liberties of the people; and expressing the opinion that the Senate should not confirm an appointment unless the prior incumbent was removed for sufficient cause."<sup>88</sup>

Jackson's controversial removal of the Secretary of the Treasury, William Duane,<sup>89</sup> in the fall of 1833 further precipitated Congressional debate concerning the respective powers of removal and appointments to be exercised by the Executive and Legislative Branches, which was carried on intermittently throughout the 23rd Congress. On March 7, 1834, Clay introduced a series of resolutions, serving to articulate the Whig positions on these matters,<sup>90</sup> and the following

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<sup>86</sup>Ibid., pp. 106-111.

<sup>87</sup>Fish. *The Civil Service and the Patronage*, p. 119.

<sup>88</sup>Debates in Congress, v. 8, 22nd Cong., 1st sess., Jan. 26, 1832: 181.

<sup>89</sup>For a discussion of the circumstances surrounding the Duane case, see *The Jacksonians*, pp. 34-38.

<sup>90</sup>Senate Doc. 155, 23rd Cong., 1st sess. (March 7, 1834). This is included in *The Jacksonians*, as already cited, pp. 40, 41.

session a Senate Committee on Executive Patronage, under the Chairmanship of John Calhoun, was appointed to investigate the extent of patronage and to recommend ways to control it. The Calhoun Report was filed on February 9, 1835.<sup>91</sup> Bills stemming from the Report sought to repeal the 1820 act mandating four year tenure for various positions, to require periodic submissions of to the Senate/records of all disbursing officers, and to require "That, in all nominations made by the President to the Senate, to fill vacancies occasioned from office, the facts of the removal by removal/shall be stated to the Senate at the same time that the nomination is made, with a statement of the reasons for such removal."<sup>92</sup> This latter bill concerning removals passed the Senate by a vote of 31 to 16,<sup>93</sup> but Jackson's partisans in the House kept it bottled up in Committee.

This extended debate on the patronage issue during the 23rd Congress, particularly the discussion on the Calhoun Report itself, was to some extent a partisan attack on President Jackson by the Whig opposition, led by the famous trio of Clay, Calhoun, and Webster. The attention focused on Constitutional questions surrounding the appointment and removal powers served to reopen discussion on the "decision of 1789" (which was ultimately affirmed by inaction). While the debate was lengthy and at times eloquent, the content provided a

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<sup>91</sup>U.S. Congress. Senate. Committee on Executive Patronage. Inquiry into the extent of Executive Patronage; the expediency and practicability of reducing the same; and the means of such reduction. 23rd Cong., 2nd sess., Senate Report 108, February 9, 1835. Washington, Duff Green, 1835.

<sup>92</sup>Congressional Debates, v. 62, Senate, 23rd Cong., 2nd sess., February 13, 1835: 422.

<sup>93</sup>Ibid., February 14, 1835: 446-47.

rehashing of old arguments, already familiar, and the solutions proposed were far from original. As Fish rather caustically observed regarding the debate:

These speeches [by Webster, Clay, and Calhoun], and others, were eloquent and sincere; they exhibited high ideals of the civil service pleasing to contemplate, and are full of passages suitable for quotation by the civil service reformer. When we turn, however, to the measures proposed, we find a paucity of invention painful to contemplate. If these men, after ten years of discussion of the civil service, could not propose measures better calculated to improve it, their ability has been overrated. The fact is, that what had so long occupied their attention was not primarily the civil service, but the patronage: their first object was not to secure good work, but to reduce the power of the president; it was still political and administrative reform which they felt was necessary.<sup>94</sup>

Van Riper has also pointed out that the reformers were "not especially interested in the promotion of efficiency in public business," but rather in the limiting of the power of the Executive, and this determined the solutions advocated:

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<sup>94</sup>Fish. *The Civil Service and the Patronage*, p. 142. For highlights of the debate, see *Congressional Debates*, v. 62 (as already cited), pp. 458-70 for Webster; pp. 514-23 for Clay; pp. 553-63 for Calhoun; and pp. 440-47 for Ewing.

Therefore, their remedies for the evils of patronage were fundamentally negative remedies -- remedies which forbade rather than proposed, as far as the appointing power of the executive branch was concerned. At most, the effect of their measures would have been to transfer control of the patronage from the hands of the President to those of Congress -- a highly dubious transaction if these men were really serious in their declared intent to destroy the power of patronage.<sup>95</sup>

It is interesting in the context of merit system history that the concern at this point centered on the issue of removals, or the security of tenure principle. Despite the various shortcomings of this attempt at reform in 1834-35, the effort was significant, for it would not be until after the Civil War -- more than three decades hence -- that the problem of civil service reform would again demand "so much of the time and talent of our legislative branch."<sup>96</sup>

As noted previously, when the Whigs assumed control of the Presidency in 1841, with the election of Harrison, they did not attempt to implement the program they had been advocating in the Congress, "either because they had become convinced that such schemes were impracticable, or because they merely considered that circumstances alter cases."<sup>97</sup> (Instead they followed patronage practices not unlike those of their immediate predecessors, as outlined in the previous section above.) However, the remedies proposed by the Whigs in 1834-35 -- repealing the 1820 Tenure of Office Act and requiring stated causes for removals -- were revived from time to time. For example, a resolution was

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<sup>95</sup>Van Riper, p. 40.

<sup>96</sup>Ibid., p. 41.

<sup>97</sup>Fish. The Civil Service and the Patronage, p. 145.

introduced in the House in 1841, similar to the measure approved by the Senate in 1835, calling upon the President and Department heads to state reasons for removal, but the measure failed.<sup>98</sup> In 1842 a House Committee, chaired by Garrett Davis, prepared a Report which advocated repeal of the 1820 legislation and removals only for stated causes, and which denounced the patronage system in passages such as this:

The practice of treating all the offices of this great Government as 'the spoils of victory' and, with the rise and fall of contending parties, the ejection of a large multitude of experienced, honest, and capable incumbents, to make room for needy mercenaries, who entered the political conflict without any principle or love of country, but impelled wholly by a hope of plunder, is the greatest and most threatening abuse that has ever invaded our system.<sup>99</sup>

The appearance of a Report in the summer of 1844, prepared by Senator James Morehead, provided the most elaborate document attacking the evils of the spoils system and constituted the last major effort of the Whigs for reform of patronage practice.<sup>100</sup> Morehead was concerned with the removal issue, but instead of recommending the familiar proposals, he suggested a different approach -- a statutory declaration of causes sufficient to justify removal of various officers. Neither the Davis nor Morehead Reports prompted significant action.

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<sup>98</sup>Congressional Globe, v. 10, 27th Cong., 1st sess., June 17, 1841: 65, 66. (No. 5, June 25, 1841).

<sup>99</sup>House Report 945, 27th Cong., 2nd sess., p. 6 (1842).

<sup>100</sup>Senate Doc. 399, 28th Cong., 1st sess. (June 15, 1844).



There were also Congressional investigations focusing on particular agencies where mismanagement was suspected. For example, in 1834 and 1835 Committees in both the House and Senate undertook an investigation of the Post Office Department and issued Reports.<sup>101</sup> Patronage per se was not a topic for consideration, but the Whig minority on the House Committee used the opportunity to record their condemnation of recent developments. They noted in the minority portion of the Report that in 1829 prior to Jackson's inauguration there were 38 clerks in the Post Office Department, while just five years later there were 90 clerks.<sup>102</sup> The House minority also criticized the growing politicization of this large Department, which prior to 1829 had not been considered as a bastion of partisanship. The Post Office Act of 1836 (5 Stat. 80) resulted, followed by a departmental reorganization and a new Post Master General. Of interest here is the provision in this Act which assigned four-year terms for postmasters, thereby providing indirect statutory authority for the rotation aspect of the spoils system as related to the Post Office Department.

Another example of an investigation into mismanagement related to patronage abuses was the probing of affairs at the New York City customhouse. As noted previously, the position of collector of a major port tended to become a partisan base from which to direct and strengthen emerging political machines in the cities. Perhaps the most notorious of such appointments was

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<sup>101</sup>See: House Report 103, 23rd Cong., 2nd sess. (February 13, 1835), majority findings (Democrat), pp. 50-51; minority findings (Whig), pp. 218-19. There were two reports issued by the Senate Committee: Senate Doc. 422, 23rd Cong., 1st sess. (June 9, 1834); and Senate Doc. 86, 23rd Cong., 2nd sess. (January 27, 1835).

<sup>102</sup>House Report 103 (1835), p. 192.

that of Samuel Swartwout, who served as collector of New York from 1829 to 1838; after defaulting with over a million dollars, he left the country.<sup>103</sup> A House Select Committee as well as the Treasury Department investigated the situation; they gathered much data, but failed to reach agreement on the proper placement of responsibility for the scandal.<sup>104</sup> President Van Buren (who had advised Jackson against the Swartwout appointment) appointed an equally corrupt replacement, Jesse Hoyt, who "outdid his predecessor in everything but the amount embezzled."<sup>105</sup> This led to still further investigation in 1842. Other agencies likewise were investigated on charges directly or indirectly relating to patronage abuses. With respect to the general contributions of such Congressional investigations during this period, White has observed:

That Congress performed a useful function in the course of its many investigations of the executive departments cannot be **doubted**. They were usually too late to remedy the evil that brought select committees successively into being. They succeeded, however, in turning the spotlight of publicity on evil-doing and in arousing indignation over official abuses. The tide was not running toward reform or high standards during these years, and the positive achievements of committee reports were at times discouraging.<sup>106</sup>

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<sup>103</sup>For a brief description of this situation, see White, *The Jacksonians*, pp. 424-29.

<sup>104</sup>See House Doc. 13, 25th Cong., 3rd sess. (Dec. 10, 1838), for a copy of the Treasury investigation. See House Rept. 313, 25th Cong., 3rd sess. (Feb. 27, 1839), for the Report of the House Committee, including the evidence gathered.

<sup>105</sup>White. *The Jacksonians*, p. 428.

<sup>106</sup>*Ibid.*, p. 150.

One additional investigation during this period needs to be singled out in the context of this discussion -- that of the House Select Committee on Retrenchment, chaired by Thomas Gilmer, in 1842. The mission of the Gilmer Committee was a reduction of Federal expenditures, and during the course of the investigation they considered various matters relating to personnel policy in the civil service. For example, the Report called attention to the inefficiency created by the spoils system as a result of the frequent turn-over and politically-motivated selections of personnel. The Report noted that great detriment resulted

from the habit of filling the most important clerkships and bureaus with persons who have had no previous experience as to their duties. . . it very often happens that individuals are brought from a distance, perfect strangers to the duties and details of their offices, installed in bureaus or clerkships with which they never become familiar until in their turn they have to give place to others equally ignorant with themselves.<sup>107</sup>

The Gilmer Report further suggested that a substantial reduction in staff (and hence economy) might result if political considerations in appointments ceased and assessments of individual competence became decisive. Although the Gilmer Report received praise, its initial impact with regard to the civil service was negligible. However, one recommendation -- selecting clerks on the basis of examinations -- was eventually adopted, albeit a decade later. In terms of the history of the merit system the following passage from the Report is of sufficient interest to quote at some length. After mentioning the initial implementation of examinations in the military services, the Committee observed:

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<sup>107</sup>House Report 741, 27th Cong., 2nd sess., p. 19 (May 23, 1842).

. . .the application of the same principle in the original appointment of clerks would be attended with beneficial results. For this purpose, a board of examination might be instituted in the Departments, to consist of six members, one to be designated annually by each head of a department; three at least to be heads of offices or bureaus, and the residue principal clerks. The board might hold regular sessions semi-annually or quarterly, and special sessions as often as required. The members should be sworn to act impartially, and they should examine the candidates designated by the heads of Departments, as to character, moral habits, knowledge of accounts, penmanship, capacity to write good business letters, etc.; and the heads of Departments should be limited in their appointments to the lowest grade of clerks to such applicants as had satisfactorily passed their examination. The secretary of the board should probably be a permanent officer, and keep a minute of the proceedings, or record them. He might be selected from one of the offices, and receive a compensation of a few hundred dollars per annum for this additional duty.<sup>108</sup>

As mentioned in the previous chapter, examinations had already been instituted via departmental regulations on a very limited scale for army and navy surgeons, West Point cadets, and midshipmen.<sup>109</sup> During the period from 1829-1865, the examination program within such technical spheres of the military was not only maintained, but actually expanded. Congress placed the previously established examination system for the naval medical service on a statutory basis in 1828:

. . .That, from and after the passing of this act, no person shall receive the appointment of assistant surgeon in the navy of the United States, unless he shall have been examined and approved by a board of naval surgeons, who shall be designated for that purpose, by the secretary of the navy department; and no person shall receive the appointment of surgeon in the navy of the United States until he shall have served as an assistant surgeon for at least two years, on board a

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<sup>108</sup>Ibid., p. 24.

<sup>109</sup>See chapter two, above, pp.

public vessel of the United States, at sea, and unless, also, he shall have been examined and approved by a board of surgeons constituted as aforesaid.<sup>110</sup>

The initial requirements for army surgeons had only applied to candidates lacking formal medical-school credentials, but following the establishment in 1833 by the Secretary of War of an examination board to scrutinize all applicants, Congress in 1834, also gave this requirement a statutory basis:

. . . That from and after the passage of this act, no person shall receive the appointment of assistant surgeon in the army of the United States, unless he shall have been examined and approved by an army medical board, to consist of not less than three surgeons or assistant surgeons, who shall be designated for that purpose by the Secretary of War; and no person shall receive the appointment of surgeon in the army of the United States, unless he shall have served at least five years as an assistant surgeon, and unless, also, he shall have been examined by an army medical board constituted as aforesaid.<sup>111</sup>

It should be noted that the systems thus created for both the Army and Navy included not only entrance examinations, but an additional exam plus experience (two years in the Navy, five years in the Army) for promotion from assistant surgeon to surgeon. The satisfactory results of the examination system were attested to consistently in various reports of the surgeon general, and the selectivity by the proportion of successful applicants: sometimes as low as one in six and regularly less than one in three were accepted.<sup>112</sup> Via department regulations examinations were extended to other sectors within the

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<sup>110</sup>4 Stat. 313. May 24, 1828.

<sup>111</sup>4 Stat. 714. June 30, 1834.

<sup>112</sup>White. The Jacksonians, 364.



military as well. For example, in 1842 the Secretary of the Navy required an entrance exam for positions such as gunners, carpenters, and sailmakers.<sup>113</sup> And as technological developments introduced the steam warships, a naval engineer service was established with distinct grades;<sup>114</sup> subsequently technical exams were made a requirement both for admission and promotion in this service. Citing these and other examples, White observed, "An examination system was thus firmly planted in the Jacksonian era, flourishing side by side with the theory of rotation and appointment for partisan and personal considerations."<sup>115</sup>

The Gilmer Committee in 1842 had concluded that a plan for examinations, as outlined in the Report, would reduce the number of applicants, protect the Department heads, and render the "appointment of the most worthy at least probable."<sup>116</sup> Of course beyond the interest in the efficiency of the civil service was the broader consideration of government retrenchment, which was a topic of considerable discussion in the 1830's and 1840's.

It was a similar concern with efficiency, as well as increasing uneasiness with the spoils system, that led to the institution of the pass-examination for clerks in the 1850's. The central character in this effort was Senator Robert M.T. Hunter of Virginia, who became Chairman of the Senate Finance Committee in 1850, a position he retained for over a decade (until the Civil War).

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<sup>113</sup>Paullin, Charles Oscar. *Naval Administration, 1842-1861*. Proceedings of U.S. Naval Institute, v. XXXIII(1907), p. 1457.

<sup>114</sup>5 Stat. 577. August 31, 1842.

<sup>115</sup>White. *The Jacksonians*, p. 365.

<sup>116</sup>House Report 741, 27th Cong., 2nd sess., p. 24 (May 23, 1842).

The following passage highlights the significance of Hunter's contribution:

In general, we can say that before the Civil War no one devised a practical program for administrative reform of the civil service. If anyone deserves credit for prophetic insight in this period, it is not Clay, Calhoun, or Webster, but Senator Robert M.T. Hunter of Virginia. It was largely at the inspiration of this southerner that the pass-examination statutes of the eighteen fifties were enacted. Unfortunately, Hunter joined the Confederacy as its first Secretary of State and was thereafter lost to the federal scene.<sup>117</sup>

On March 7, 1851, Hunter introduced a resolution of inquiry in the Senate, which was approved by unanimous consent:

Resolved, That the Secretaries of State, of the Treasury, of the Interior, of War, of the Navy, and the Postmaster General, be directed to report to the Senate at the next session of Congress some plan for classifying the clerks in those Departments, for apportioning their salaries according to their services, and for equalizing the salaries of clerks of the same grade in each of the Departments; and also some plan to provide for a fair and impartial examination of the qualifications of clerks, and for promoting them from one grade to another upon a due regard to qualifications and services.<sup>118</sup>

Some fourteen months later, on May 3, 1852, the "Plan of the Five Secretaries" was submitted to the Senate. Daniel Webster as Secretary of State refused to endorse the report, arguing that the requirements in his Department were unique (e.g., need for foreign language proficiency). However, the other Department heads all agreed on the major features of the system -- examination, tenure, graded pay, and systematic promotion.<sup>119</sup> In its introduction the Report stressed "the importance of securing, more uniformly, a high grade of

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<sup>117</sup> Van Riper, p. 55.

<sup>118</sup> Congressional Globe, v. 23, 31st Cong., 2nd sess., March 7, 1851: 405.

<sup>119</sup> See White. The Jacksonians, pp. 367, 370.

qualifications, and a more permanent tenure to the clerkships in the several departments. . . .<sup>120</sup> There was scattered criticism, but by and large the Plan was favorably received by those in the administrative service.<sup>121</sup>

On February 26, 1853, an amendment to the Civil and Diplomatic Appropriations bill, substantially incorporating the proposed plan and having been inserted as a Committee amendment by Hunter, came to the Senate floor. The amendment organized clerks into four classes, set respective salaries, enumerated the numbers and classes of clerks to be assigned to each Department, and also included an examination requirement reading as follows:

No clerk shall be appointed in either of the four classes until after he has been examined and found qualified by a Board, to consist of three examiners, one of them to be the chief of the bureau or office into which he is to be appointed, and the two others to be selected by the head of the Department to which the said clerk will be assigned.<sup>122</sup>

There was but brief discussion of the amendment before it passed the Senate by vote of "ayes 27, noes not counted."<sup>123</sup> One query related to the matter of how the proposal might affect incumbents. Hunter explained in response: "It provides that the existing clerks shall be classified and distributed. It legislates no one out of office or into office. It leaves that as it is now." So in contrast to the practice adopted subsequent to the Pendleton Act, whereby groups of incumbents would "blanketed-in" (as will be discussed in detail later), the 1853 legislation provided that each current occupant of a position

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<sup>120</sup>Senate Ex. Doc. 69, 32nd Cong., 1st sess. (May 3, 1852).

<sup>121</sup>White. The Jacksonians, pp. 368-71.

<sup>122</sup>Congressional Globe, v. 26, 32nd Cong., 1st sess., February 26, 1853: 897.

<sup>123</sup>Ibid., pp. 896, 897.

covered by the amendment was to pass the test or be dismissed. In June of 1853 pass-exams (described shortly) were held, and "with few exceptions the incumbent staff was found qualified."<sup>124</sup> Senator Pettit voiced the only major objection to the examination plan during the short Senate debate, contending that "It vests in the hands of three men already in the office the power to say who shall be of their number -- who shall come in and who shall stay out. Necessarily it will produce a system of favoritism."<sup>125</sup> The Plan became a part of law March 3, 1853. White has suggested that this modest reform ". . . slipped through the Senate with bare notice, and through the House with almost none."<sup>126</sup>

This 1853 provision required the major Departments to establish examining boards and to hold pass-exams for entrance into the four classes of clerical positions located in Washington; initially about 700 positions were involved.<sup>127</sup> The pass-exams were usually non-competitive (only the pre-nominated applicant took it), and the content was non-standardized as between Departments. At best the procedure provided a screening process; "the examination merely attested qualification, not superior qualification."<sup>128</sup>

Consequently, the effectiveness of the examination procedure varied, it being ~~taken seriously~~ "mainly in the appointment of fiscal employees," whose

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<sup>124</sup> White. The Jacksonians, p. 372.

<sup>125</sup> Congressional Globe, February 26, 1853: 897.

<sup>126</sup> White. The Jacksonians, p. 365.

<sup>127</sup> Ibid., p. 371. The largest groups included were the General Land Office (106), the office of the auditor for the Post Office (101), and the Post Master General's Office (78). "Postmasters and their clerks were not affected, nor were the mass of clerks in customhouses, Indian offices, land offices, and other field establishments." (Ibid.).

<sup>128</sup> Ibid.

duties were perhaps a bit more technical than that of the typical clerk. A Report of the Treasury Department, in 1854 described the simple but relevant nature of the examination content utilized there:

This course of examination has required that the applicant shall -- 1st, be able to write an ordinary business letter, in a fair and legible hand; 2nd, that he shall show himself to be acquainted with the first four rules of arithmetic, and capable of ordinary celerity in the use of them; and 3rd, that he shall evince some knowledge of the generally received principles of accounting.<sup>129</sup>

In 1855 the sixth auditor reported that between 1853 and 1855, 86 applicants had been examined and 25 rejected.<sup>130</sup> In late 1855 he noted that improvement was already noticable as a result of the examination program, and he reported "a spirit of emulation to secure promotion, not by political or personal favor, but by that moral, intellectual, and clerical improvement and qualification, of which it is the appropriate official acknowledgement and reward."<sup>131</sup>

On the other hand, various commentaries also note the limitations of the pass-examination system. Fish wrote, "The character of the examinations, however, depended entirely on the discretion of the department head, who was also the appointing officer; and consequently they amounted to little."<sup>132</sup>

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<sup>129</sup>House Exec. Doc. 3. 33rd Cong., 2nd sess. (1854), p. 98.

<sup>130</sup>Senate Exec. Doc. 2, 34th Cong., 1st sess. (Nov. 20, 1855), p. 165.

<sup>131</sup>Senate Exec. Doc. 2, 33rd Cong., 1st sess. (Nov. 19, 1853), p. 138.

<sup>132</sup>Fish. The Civil Service and the Patronage, p. 183. Biography of an Ideal [1973] provided this negative appraisal: "'Pass examinations' were not the solution, and they were often cynically applied. A 'pass examination' was restricted to one person and he usually secured this privilege through political pull; requirements for identical positions were varied according to the person taking the examination; questions were often farcical, such as 'What did you have for breakfast this morning?'; and often the examination, though required by law, was omitted entirely." (p. 25).



Kaufman likewise discounted the immediate efficacy of the exams, but indicated that this represented a step forward toward more far reaching reform:

The examining boards, if they gave the examinations at all, made them so ridiculously easy that nobody was likely to fail, and it soon became apparent that even the form of the examination system was frequently omitted. But here was official recognition by the government that the spoils system was far from generally satisfactory.<sup>133</sup>

In August of 1856, in response to the prodding of Secretary of State Marcy, the Congress enacted a provision (11 Stat. 52) in effect devising a career system based on merit for the foreign service; 25 students, chosen competitively by examination, or other means, were to be selected as consular pupils, to receive special training, and promotions according to performance. But Congress repealed the statute (11 Stat. 159) less than six months later, so this attempt never got off the ground. The idea was revived in a watered-down form in 1864 in a proposal for the appointment of thirteen consular clerks.<sup>134</sup>

Some attention was focused on the issue of political neutrality of the civil service in the latter 1830's. In the House John Bell introduced a bill "to secure the freedom of elections" in 1837, prohibiting the interference by Federal employees in elections and providing for a fine not to exceed \$1000 for violations. With respect to political activities,

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<sup>133</sup>Kaufman, p. 32.

<sup>134</sup>See: Adams, Henry Brooks. Civil-Service Reform. North American Review, v. CLIX (1869), pp. 461-65.

No officer, agent, or contractor, or other person, holding any office or employment of trust under the Constitution and laws of the United States, shall, by the contribution of money, or other valuable thing, or by the use of the franking privilege, or the abuse of any other official privilege or function, or by threats and menaces, or in any other manner, intermeddle with the election of any member or members of either House of Congress, or the President or Vice President of the United States or of the Governor, or other officer of any State, or any member or members of the Legislature of any State.<sup>135</sup>

The measure was reintroduced in the following Congress, but was again never reported by the House Committee. A similar measure was introduced in the Senate by John Crittenden. Adversely reported by the Judiciary Committee, the bill was debated for two weeks, with opinion dividing somewhat along party lines (Whigs in favor, Democrats opposed). The bill was defeated by vote of 28 to 5 on February 27, 1839. These particular efforts at regulating political activities by Federal employees terminated with the election of 1841, when the Whigs won the Presidency, and the leading Congressional advocates -- Bell and Crittenden -- became Cabinet Members. A separate attempt occurred in 1839 when Senator C.W. Rives introduced a series of resolutions, seeking to limit electoral influence by Federal employees; the final resolution stated that "measures ought to be adopted by Congress so far as their constitutional powers may extend, to restrain by law all interference of Federal officers with elections, otherwise than by giving their own votes," and suggested that a select committee be established and furnished with relevant documents in order

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<sup>135</sup> Congressional Globe, v. 4, 24th Cong., 2nd sess., January 25, 1837: 124.

to draw up appropriate measures. The Senate rejected the resolutions, in a party-line vote.<sup>136</sup>

In terms of actions relating to equality of opportunity during this period, in 1864, for the first time Congress gave statutory recognition to the employment of women in the Federal civil service, "although women had been employed in the Government since before the Revolution (the first Official Register, 1816, lists about half a dozen women postmasters and post office clerks). . . ."<sup>137</sup> The Supplementary Appropriations Act of 1864 contained the following provision:

. . . and the heads of the said several departments are hereby authorized to employ females instead of any of the clerks hereinbefore designated, at an annual compensation not exceeding six hundred dollars per year, whenever, in their opinion, the same can be done consistently with the interests of the public service. . . .<sup>138</sup>

While officially authorizing the employment of women for the first time in any of the four clerical classes, the salary provision was blatantly discriminatory; the provision of the 1853 classification legislation had set a "training-grade" salary at \$900, with the other classes being respectively, \$1,200, \$1,500, and \$1,800.<sup>139</sup> So the maximum salary allowed the female clerk

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<sup>136</sup> Congressional Globe, v. 7, 25th Cong., 3rd sess: 409. For a fuller discussion of these efforts at furthering a politically neutral civil service, see: Rimensnyder, Nelson F. Regulation of Political Activities of Federal Employees Prior to Enactment of the Hatch Political Activities Act (1939-1940): A History of Policy. U.S. Library of Congress, Congressional Research Service [multilith 73-57, December 29, 1972] pp. 3-6.

<sup>137</sup> History of the Federal Civil Service, p. 33.

<sup>138</sup> 13 Stat. 23, March 14, 1864.

<sup>139</sup> For a discussion of the compensation provisions of the 1853 amendments to the appropriations bill, see White, The Jacksonians, pp. 376-77.

(\$600) was less than the lowest salary paid to a male clerk.

Three final events <sup>must be mentioned in</sup> this survey of preliminary reform initiatives to the mid 1860's. The conduct of the Civil War placed unusual burdens on the civil service and accentuated administrative problems, a matter to be considered in greater detail in the next chapter. In 1863 Secretary of State Seward requested that the American Counsel General at Paris prepare a report on the French customs service. In response John Bigelow reported enthusiastically on the system of competitive exams utilized by the French system and recommended that the United States adopt a similar system.<sup>140</sup> In 1864 Senator Charles Sumner introduced a bill "to provide for the greater efficiency of the civil service," which sought to establish recruitment by competitive exams to be administered by a commission and removal only for cause. This was the first of a series of bills introduced in the Congress over the ensuing years, similar in content to the ultimately adopted Pendleton Act of 1883.<sup>141</sup> However, Sumner apparently had no serious intentions of enacting the measure then, for immediately after introducing the bill, he moved to have it tabled, stating, "As there is no committee of the body that might properly take the subject of this bill into consideration, I shall ask that it lie upon the table, and be printed."<sup>142</sup> On December 20, 1865, Representative Thomas Jenckes, who

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<sup>140</sup>Fish. The Civil Service and the Patronage, p. 210.

<sup>141</sup>Hoogenboom, Ari. Outlawing the Spoils. Urbana, University of Illinois Press [1961] p. 10.

<sup>142</sup>Congressional Globe, 38th Cong., 1st sess., April 30, 1864: 1985.

was to become a leader of the civil service reform movement (see discussion in next chapter), introduced a measure similar to the Sumner proposal in the House. The Jenckes bill likewise received no immediate action, although it was referred to the Committee on the Judiciary.<sup>143</sup>

#### IV. Conclusion

The years from 1829 to 1865 thus constituted **an eventful era in the history** of the Federal civil service. The complexities of the period have too frequently been overlooked due to a preoccupation with the operations and evils of the spoils system (as characterized by rotation-in-office and patronage practices.) As we have seen, there were in reality two personnel systems in operation, and merit principles while in frequent abeyance were not entirely absent.

On the one hand, patronage criteria tended to be the dominant consideration in recruitment to Federal positions, and arbitrary removals were common, given the adherence to rotation theory. Compared to the earlier period from 1789-1829, there was a much higher degree of instability in the service due to frequent turnover as the respective political parties alternately gained control of the Presidency. And on average, employees tended to be less experienced, if not less capable. Thus the spoils system did contribute to a loss in efficiency and decline in the prestige of the Federal service.

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<sup>143</sup>Congressional Globe, 39th Cong., 1st sess., December 20, 1865: 98.



On the other hand, a small groups of permanent career employees remained in their positions throughout the turmoil of the period; particularly noteworthy were the auditors and the chief clerks. So while the overall level of competence declined, some experienced and knowledgeable employees were retained and in effect kept the Departments running on a day-to-day basis. And with respect to the principle of recruitment on the basis of individual merit, the civil service examination system was also expanded. Previously established exams for the military medical corps were broadened and placed on a statutory basis, and exams were devised for other military specialities as well. The pass-examination system of 1853, while no panacea, was a significant development. As Hoogenboom has noted, these pass exams, even if "honestly administered merely insured a minimum standard. . . [but] provided machinery to prevent retention and future appointment of the worst incompetents."<sup>144</sup> That any such legislation was approved during this period was somewhat remarkable. As White explained:

The impetus for reform by examination was not great. It was not, as it later became, a public issue. Neither the Democratic nor the Whig parties had advocated an examination system, and there had been **practically** no prior discussion or agitation in the country, or in the leading journals of opinion. No particular scandal immediately preceded the enactment of 1853. It was, however, in the main stream of historical development, reaching back to the tradition of the Federalists and the Jeffersonians, and fortified by the successful experience of the army and navy medical corps.<sup>145</sup>

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<sup>144</sup>Hoogenboom, p. 9.

<sup>145</sup>White. The Jacksonians, pp. 374-75.

A positive contribution of Jacksonian personnel policy was to further democratize the composition of the civil service. Although partisan prerequisites eliminated from consideration those who did not support the winning side in a given election, the recruitment basis expanded to include a broader socio-economic cross-section of the population. In contrast to the concentration on the social class of "gentleman" in the previous era, Jackson and his followers brought in the common people (which related to the conception of government work as sufficiently simple that anyone of average intelligence could perform it). Equality of opportunity was thereby increased. For the first time the employment of "female clerks" was officially recognized, but the lower salary stipulated for women seems blatantly discriminatory in retrospect.

The merit system principle of political neutrality was perhaps the greatest casualty of the spoils era. As have been described above, political obligations -- in the form of personal services, financial contributions, and even "correct" votes -- became accepted requirements for the Federal worker. Moreover, "recruitment for civil service positions was based not only upon partisan affiliation but upon the expectation of future partisan service as well."<sup>146</sup> Certain agencies such as the major customhouses became integrally tied in with the local political machines. In this situation, both the public interest in efficient administration and the individual worker's independence were compromised. There were brief efforts to control the political activities of Federal employees -- the Harrison order and the various bills introduced in the Congress in the latter 1830's -- but to little avail.

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<sup>146</sup> Rosenbloom, p. 58.

Various commentaries suggest the relationship between the contours of political competition during this era and the abuses of the spoils system. For example Van Riper observed:

Had the Jacksonians been able to maintain themselves in uninterrupted power as long as had the **inheritors** of the mantle of Jefferson, it is quite possible that the turnover of the public service from 1830 to 1860 might have resembled that of the period from 1800 to 1830. But the panic of 1837 cut short the hopes of Martin Van Buren and initiated a period of party instability which was to continue until 1860. That the civil service would reflect the same instability was almost a foregone conclusion.<sup>147</sup>

For more than a decade following the election of Jackson, the Whigs in Congress offered vocal criticism of the spoils system, particularly focusing on the matter of tenure and removals, but to scant long-run effect. As White has noted:

The Whigs failed, both in their opposition to rotation and by their eventual desertion of the cause they had so eloquently upheld. They nevertheless worked out a reasoned statement of the case for the traditional system of permanent employment and against Jackson's 'reform.' They condemned the theory of rotation because it dangerously magnified executive power, because it corrupted public and private morals, and because it lowered the competence and impartiality of the public service, reducing it to a mere party agent instead of preserving a stature like that of the armed forces -- the common servant of the people.<sup>148</sup>

At the close of this era, the introduction of the Sumner and Jenckes bills advocating civil service reform provided a preview of subsequent developments. For the next twenty years, in the aftermath of the Civil War, the reform movement continued to grow, culminating in the 1883 legislation. We turn now to this chapter in the history of the merit system.

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<sup>147</sup>Van Riper, p. 41.

<sup>148</sup>White. The Jacksonians, p. 324.

## CHAPTER FOUR

## THE FRAMEWORK FOR REFORM, 1865-1883

In the years before 1865 there had been scattered attempts to reform the civil service, as surveyed in the preceding chapters. But only after the Civil War did the issue of the civil service come to occupy a position of prominence on the national scene. At that point

...the powerful energies and ideals of the Anti-Slavery Society and similar organizations of the forties and fifties took up the cudgels. As the sixties moved into the seventies, civil service reform and its new generation of champions, along with other reform movements involving such things as money and the tariff, slowly but surely came to occupy a prominent place among the current political issues<sup>1</sup>

In contrast to the presentation of the other periods, discussion of this eventful albeit relatively brief epoch does not lend itself to the precise topical outline employed for the other chapters of this study. Rather, the constant interactions between the Executive Branch and the Congress with respect to the evolution of policy concerning the civil service reform issue and the developing merit system during this era, along with the influence of significant forces outside the formal institutions of government (such as the Civil Service Reform Associations), suggest the appropriateness of grouping events of the period into chronological sections.

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Van Riper, Paul P. History of the United States Civil Service. Evanston, Illinois, Row, Peterson, and Company [1958] p. 63

### I. Background

In the years prior to 1865 only the most rudimentary steps toward the establishment of a Federal merit system had been taken. As characterized by one historian of the subsequent period of reform, at the end of the Civil War the Federal personnel system in practice remained "primitive":

The civil service lacked system. Uniformity in personnel policy outside of Washington was by accident rather than by design, and only a loose personnel system existed even in Washington where clerks were divided into four grades, were compensated accordingly, and were examined for competence upon appointment.<sup>2</sup>

In the preceding chapter the operation of the spoils system, with its emphasis upon partisanship and rotation-in-office was surveyed; at the same time we noted that despite the frequent turnover and usual inexperience of Federal workers during this era, a few competent clerks retained their positions across Administrations and to a considerable extent maintained continuity in the routine operations of the Departments.

As will be traced in some detail subsequently, a variety of factors contributed to the growth of the civil service reform movement and its eventual success as manifested in the passage of the Pendleton Act. By the 1880's the size of the Federal civil service might alone have prompted attention to reform. In its Report of 1882 accompanying S. 133, the bill which ultimately emerged as the Pendleton Act of 1883, the Senate Committee on Civil Service and Retrenchment began by emphasizing the sheer expansion of the country during the Nineteenth Century and the ramifications of this growth on the evolution of the Federal service:

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<sup>2</sup>Hoogenboom, Ari. Outlawing the Spoils. Urbana, Illinois, University of Illinois Press [1961] p. 2.



The growth of our country from 350,000 square miles to 4,000,000, the increase of population from 3,000,000 to 50,000,000, the addition of twenty-five States, imperial in size and capabilities, have caused a corresponding development of the machinery and faculties of the government.

In the beginning - even so late as 1801 - there were 906 post-offices; now there are 44,848. Then there were 69 custom-houses; now there are 135. Then the revenues were less than \$3,000,000; now they are \$400,000,000. Then our ministers to foreign countries were 4; now they are 33. Then our consuls were 63; now they are 728. Then less than 1,000 men sufficed to administer the government; now more than 100,000 are needed. Then one man might personally know, appoint on their merits, supervise the performance of their duties, and for sufficient cause remove all the officers; now, no single human being, however great his intelligence, discrimination, industry, endurance, devotion, even if relieved of every other duty, can possibly, unaided, select and retain in official station those best fitted to discharge the many and varied and delicate functions of the government.<sup>3</sup>

Dorman Eaton, one of the prominent leaders of the reform movement (see discussion below), specifically connected this growth in number of Federal employees to the urgent need for initiation of competitive examinations, during his testimony before the Select Committee on Retrenchment in 1881. Eaton testified:

The need of an examination at all increases in proportion to the number of clerks and the complication of the office. The postmaster who has only ten clerks in his office has no excuse for not knowing the character and history of every one of them. Nothing but bias or partisan influence can prevent him from selecting such men as he wants, upon the basis of a real knowledge of their personal fitness. But how is it when you come to the post-office in the city of New York, where there are more than a thousand clerks....<sup>4</sup>

Although the number of positions requiring some special technical competence was increasing gradually, for the most part the growth in the Federal work force during this period reflected quantitative rather than qualitative changes. As White

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<sup>3</sup>U.S. Congress. Senate Report 576, 47th Cong., 1st sess., p. i (May 15, 1882).

<sup>4</sup>U.S. Congress. Senate Report 872, 46th Cong., 3rd sess., p. 20 (Feb. 16, 1881).

observed, after reviewing data indicating that there were many more Federal workers in the latter Nineteenth Century than there had been previously: "These figures bespoke an increase in the volume of business coincident with the growth of the country rather than the addition of new functions and activities."<sup>5</sup>

In addition to the trend of long term growth, the Federal civil service was affected significantly by the experience of the Civil War. As was to be the case subsequently, with the American involvement in the World Wars of the Twentieth Century, the intense military effort was accompanied by burgeoning of the Federal civilian establishment. But this rapid expansion in the 1860's occurred within the framework of the still prevalent spoils system, thereby extending greatly patronage opportunities: "The number of laborers, clerks, and officials greatly increased, and contracts for the production of war materials were often let, not on the basis of merit, but on that of influence or position."<sup>6</sup> The adherence to spoils practices compounded the heavy demands placed upon the civilian administration as a result of the rapid mobilization during the Civil War; "...most experienced Democrats were swept from the federal service, while its functions and personnel expanded rapidly. Abnormal conditions caused inefficiencies, which magnified the problems of administration."<sup>7</sup>

These difficulties during the Civil War focused some serious, although not widespread, attention on the state of the civil service. As described by Carl Fish,

The bloated civil list, and the unusual irregularities produced by the Civil War, for the first time attracted serious attention to the problems of administration; and though the majority of congressmen still held to the plans of 1826 and 1836, and multiplied restrictions upon the power of the

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<sup>5</sup>White, Leonard. The Republican Era, 1869-1900. New York, Macmillan Company [1958] p.

<sup>6</sup>Stewart, Frank Mann. The National Civil Service Reform League. Austin, Texas, University of Texas Press [1929] p. 6.

<sup>7</sup>Hoogenboom, p. 9.

president, some men of influence began to cast about for new remedies.<sup>8</sup>

An historian of the reform era has made this same observation in a more recent work, but from a broader perspective:

The impact of the Civil War upon the civil service was similar to its effect on the larger social order. The war accelerated developments already under way. The growing bureaucracy swelled abnormally and the rotation of officeholders increased. Although the spoils system controlled more offices more completely than before, the stress of war exposed its deficiencies and stimulated interest in reform. In this way, the Civil War contributed both to the rise and to the fall of the spoils system. It was the war's legacy of Reconstruction, however, that played a greater though more subtle role in the movement for civil service reform.<sup>9</sup>

As was mentioned in the last chapter, even before the end of the Civil War Senator Sumner had introduced a reform measure, and in December of 1865 Thomas Jenckes introduced the first of his series of bills relating to civil service reform. In the following section we return to the role of Jenckes as a central character in the early efforts to introduce a merit system. But before turning to that matter another component of the background situation deserves attention. For, as Van Riper has observed,

Hardly had Sumner and Jenckes introduced their civil service proposals, when the President and Congress became engaged in the most bitter internecine warfare ever waged under our separation-of-powers Constitution. ...It is important to note that the main vehicle through which the contending forces waged their quarrel was the federal public service.<sup>10</sup>

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<sup>8</sup>Fish, Carl Russell. *The Civil Service and the Patronage*. New York, Russell and Russell [1963; originally published 1904] p. 210.

<sup>9</sup>Hoogenboom, p. 13.

<sup>10</sup>Van Riper, p. 66.

Any detailed discussion of the "Great Quarrel" between President Andrew Johnson and the so-called Radical Republicans in the Congress is beyond the purview of this study, but a brief description is needed as background to the emerging civil service reform movement. Vice President Johnson, a former Democrat in the Jacksonian tradition, acceded to the presidency following the assassination of Lincoln; subsequently he chose to utilize fully his powers of patronage, especially as policy differences between himself and the Congress intensified. Although the underlying issue of the quarrel was the shaping of reconstruction policy, "...the whole impeachment controversy can be viewed from one perspective as a struggle between the executive and legislative branches for the control of the patronage...."<sup>11</sup> Partially in reaction to Johnson's apparent exploitation of the patronage to influence the congressional elections of 1866, the Radicals, "fearing the formation of a presidential political machine, determined to curb the chief executive's power...."<sup>12</sup> As a result, the Congress overrode a presidential veto to enact the Tenure of Office Act in March of 1867.<sup>13</sup> As described by Van Riper:

This legislation required Senate approval for the removal of any officer first confirmed by that body - including cabinet members. Not by any means the first of its type of legislative proposal, the Tenure of Office Act was a traditional though somewhat extreme attempt to wrest control of the patronage from the executive branch and give it to Congress. The Radicals were merely following in the footsteps of Clay, Calhoun, and Webster.<sup>14</sup>

According to Fish, the Tenure of Office Act in 1867 "marked the first definite success that the Senate had obtained in its contest with the president for the control of the patronage...."<sup>15</sup> Johnson, who maintained that the

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<sup>11</sup>Shafritz, Jay M. Public Personnel Management: The Heritage of Civil Service Reform. New York, Praeger [1975] p. 17.

<sup>12</sup>Van Riper, p. 66

<sup>13</sup>For a discussion of this famous debate, see Fish, pp. 192-197.

<sup>14</sup>Van Riper, p. 67.

<sup>15</sup>Fish, p. 197

legislation was unconstitutional, summarily removed Secretary of State Stanton. The House responded with a vote of impeachment, and the Senate failed to convict by a single vote.

The Tenure of Office Act was subsequently repealed in 1887 (24 Stat. 500). But the violent controversy in the latter 1860's brought about a reexamination of the Constitutional ambiguities relating to the power of appointment.<sup>15</sup> And the civil service reform issue became intertwined with the broader Executive-Legislative Branch struggle for power. One writer has observed, "The Great Quarrel of 1866-67, precipitated by national crises and personalities, gave impetus to civil service reform, but at the same time checked temporarily its legislative program."<sup>16</sup> More specifically, Hoogenboom has concluded with respect to the mid-1860's:

Nascent civil service reformers were interested in the federal civil service only as it related to the President's southern policy. They ignored the Jenckes bill, which contained their future program of competitive examinations.<sup>17</sup>

Eventually, civil service reform became the center of national attention in its own right, its interest heightened especially by the assassination of President Garfield (see discussion below). But at the outset the course of development of civil service as a political issue was very much dependent upon the evolution of other contemporary events.

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<sup>15</sup>In previous chapters we have reviewed the "decision of 1789" and the brief challenges to it earlier in the Nineteenth Century.

<sup>16</sup>Murphy, Lionel V. The First Federal Civil Service Commission: 1871-75 (Part I). Public Personnel Review, v. 3 (1942), p. 30

<sup>17</sup>Hoogenboom, p. 27.



## II. Early Legislative Initiatives

As already noted, the honor of introducing the first modern civil service reform measure in the United States belongs to Charles Sumner, for his bill in 1864. But in terms of sustained interest and dedication, Thomas Jenckes is the generally acknowledged leader. According to Fish, "The first man to grapple with the question of administrative reform in a thoroughly practical manner, and to give to it the continued and single-minded devotion that so complex and vital a problem demanded, was Thomas Allen Jenckes of Rhode Island."<sup>18</sup>

As was the case with several of the others in the reform movement, Jenckes was a man of diverse interests and talents, wealthy, and from a prominent New England family. Prior to his service in the Congress, he had pursued a distinguished career as a patent attorney and businessman, along with activities in Rhode Island politics. He was elected as a Republican to the House in 1862, where he served until 1871; he was defeated for reelection largely on account of his inattention to local patronage disputes in his district.<sup>19</sup> Jenckes became interested in the state of the civil service even before entering the House. He attempted to acquaint himself thoroughly with the subject, among other things corresponding with Sir Charles Trevelyan and Sir Stafford Northgate, two leaders of the British reform movement. In December of 1865 he introduced his first reform bill, and it was patterned after the British system.<sup>20</sup>

One writer has observed regarding this proposal: "The Jenckes bill received from the past and gave to the future. Like Sumner's bill, it derived from Great Britain the concept of open-competitive examinations administered by a commission. British practice, however, was not as advanced as British theory."<sup>21</sup>

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<sup>18</sup>Fish, pp. 210-11.

<sup>19</sup>Hoogenboom, pp. 13-14, 81-82.

<sup>20</sup>Congressional Globe, 39th Cong., 1st sess., December 20, 1865: 98.

<sup>21</sup>Hoogenboom, pp. 16-17.

In short, while borrowing from foreign experience, the various American proposals also offered distinct innovations. The Jenckes bill of 1865 called for a system of competitive examinations to cover entrance into all Federal civil service positions except those requiring Senate confirmation and certain postmasterships. It further provided for appointment (with Senate confirmation), of three civil service commissioners to serve as an administrative board, overseeing the examinations and formulating necessary regulations. The system was envisioned as financially self-sufficient; fees paid for admittance to the examinations, as well as for certificates of recommendation for promotion and the like, were to cover the operating expenses. In the broad perspective, the most important "borrowed element" was doubtless the very concept of attacking the patronage problem by imposing limitations on the power of appointment; prior American attempts (as surveyed previously, and including the forthcoming Tenure of Office Act of 1867), tended to concentrate on efforts to control the removal power. "In more modern terms we can say that Clay, Calhoun, and Webster approached reform through closing the 'backdoor,' while the later reformers preferred screening the 'front door.'"<sup>22</sup>

Despite the enthusiasm of Jenckes himself, the bill did not stimulate much immediate interest either inside or outside of Congress.<sup>23</sup> However, some relevant steps followed. On March 12, 1866, the House approved a resolution offered by Jenckes to establish a seven-member select committee "whose duty it shall be to consider the subject of the civil service of the United States, and measures to promote its efficiency, and report by bill or otherwise."<sup>24</sup> On June 13, 1866, Jenckes reported his bill from the committee, but it was then voted recommitted; he at the same time submitted

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<sup>22</sup>Van Riper, p. 66.

<sup>23</sup>Hoogenboom, p. 17-19. The role of the press in the reform movement is discussed in section IV below.

<sup>24</sup>Congressional Globe, 39th Cong., 1st sess., March 12, 1866: 1342.

a resolution, approved by the House, that authorized the Select Committee to procure

...from the heads of Departments and others in such service, and said officers are hereby required on the request of the Committee to furnish such information concerning the mode of making appointments to the inferior grades of office in their respective Departments, and such suggestions of improvement therein as may aid said committee in considering plans for promoting the efficiency of said service.<sup>25</sup>

Meanwhile, later in the month Senator Gratz Brown of Missouri introduced a resolution directing the Senate Judiciary Committee to examine the feasibility of reforming the civil service:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for such a reorganization of the civil service, and especially of the Post Office, Treasury, and Interior Departments, as shall secure appointments to the same after previous examination by proper boards; as shall provide for promotions on the score of merit or seniority, and authorize dismissal under the safeguards of trial or resignation; as shall officer each branch of the service with well-trained experts in the details of its business; and as shall assimilate them all more nearly to those conditions and regulations which govern the enlistment and officering of the Army and Navy of the United States, and which have successfully precluded the latter from being used as reservoirs of political patronage or ordinary appliances of party power.<sup>26</sup>

In addition to the call for examinations, the comparison between the relatively efficient military and the patronage-ridden civil service was to become a recurring theme in discussions regarding reform. And on July 16, 1866, Senator Henry Anthony introduced the Jenckes bill in the Senate, the action apparently stemming more from his personal friendship with Jenckes than from deep conviction.<sup>27</sup>

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<sup>25</sup>Ibid., June 13, 1866: 3141.

<sup>26</sup>Ibid., June 28, 1866: 3450.

<sup>27</sup>Ibid., July 16, 1866: 3825.

Also in July of 1866, the Senate passed, as amended, a concurrent resolution already approved by the House, to establish a Joint Select Committee on Retrenchment. Reflecting in part the usual concern with economy in the aftermath of a major war, the resolution also called for a careful review of recruitment and removal procedures in the civil service. The Joint Select Committee on Retrenchment was instructed, in part, "to inquire into the expenditures in all the branches of the service of the United States, and to report whether any, and what, offices ought to be abolished; whether any, and what, salaries or allowances ought to be reduced..." and also "to consider the expediency of so amending the laws under which appointments to the civil service are now made as to provide for the selection of subordinate officers after due examination by proper boards; their continuance in office during specified times unless dismissed upon charges preferred and sustained before tribunals designated for the purpose; and for withdrawing the civil service from being used as an instrument of political or party patronage...."<sup>28</sup>

So despite a lack of widespread interest in the civil service reform issue at this point in the Congress, with the establishment of the Joint Select Committee on Retrenchment an important institutional locus for further development was put in place. Jenckes assumed leadership of the Committee, and under his sponsorship two important reports were subsequently to be released (as described below). Meanwhile, the attention of the Congress was of course centered on the heightening controversy with President Johnson; the interrelationships between the impeachment situation and the evolution of the reform movement have already been surveyed. Nor was public interest yet mobilized in support of reform. One writer has described

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<sup>28</sup> Ibid., July 14, 1866: 3804.

the situation with respect to popular attitudes at the end of the Civil War as follows:

While the politicians were making use of the public offices to pay political debts, public opinion seemed indifferent. Attacks upon the spoils system in Congress and in the press were looked upon as partisan attempts to embarrass the administration; the public conscience seemed dulled to the enormous abuses of patronage.<sup>29</sup>

In these general circumstances, Jenckes delivered his first major speech in favor of civil service reform on the floor of the House on January 29, 1867. The bill in question was the substitute he had reported from the Joint Select Committee on December 13, 1866.<sup>30</sup> The changes in the substitute bill reported, in contrast to the original introduced a year earlier, have been summarized in this way:

This revised measure narrowed the scope of civil service coverage by exempting all postmasters from its operation. The substitute bill also defined the judicial functions of the commission in greater detail, and, in keeping with anti-Johnson sentiment, allowed the Senate as well as the President to require examination of presidential appointees. The bill, like its predecessor, generally excluded applicants for positions requiring senatorial confirmation from compulsory-competitive examination.<sup>31</sup>

In his speech Jenckes provided both a critique of the spoils system and a blueprint for reform. At the outset he attempted to stress that the bill had been proposed "for no political or partisan purpose."<sup>32</sup> He contrasted the recruitment procedures

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<sup>29</sup>Stewart, p. 7.

<sup>30</sup>Congressional Globe, 39th Cong., 2nd sess., December 13, 1866: 109.

<sup>31</sup>Hoogenboom, p. 27. For full text of the substitute bill, see Congressional Globe, 39th Cong., 2nd sess., January 29, 1867: 835-36.

<sup>32</sup>Hoogenboom notes, however, "Even though Jenckes claimed his bill was nonpartisan since he had drafted it during Lincoln's administration, it was hostile to President Johnson." (p. 28).



for the military and civil services, observing: "While careful in the highest degree in the selecting and training of those who adopt the profession of arms, we have been negligent and even reckless in the mode of choosing our civil service." He reported that the Joint Select Committee on Retrenchment "have become convinced . . . that the true interests of the Government can be best served, its expenses lessened, the character of its officers improved, and its business more effectually done, by an entire reformation in the mode of making appointments in the civil service." (Italics added). He reviewed the defects of the current system and argued that the proposed merit system (competitive exams with admission open to all, "the most worthy to receive the appointment"), would have beneficial consequences - economic, administrative, and political. Taking advantage of the popular retrenchment theme (which was after all to be the overriding concern of the Joint Select Committee), he further suggested:

Let us seek to obtain skill, ability, fidelity, zeal, and integrity in the public service, and we shall not be called upon to increase either salaries or the number of offices. It is safe to assert that the number of offices may be diminished one third, and the efficiency of the whole force of the civil service increased one half, with a corresponding reduction of salaries for discontinued offices, if a healthy system of appointment and discipline be established for its government.

He also contended that by decreasing patronage obligations, Members of Congress (and other public officers) could save countless hours now spent dealing with office seekers and then utilize the time for more important duties.<sup>32</sup> According to Hoogenboom's assessment, the speech ". . . illustrated Jenckes's grasp of civil service reform and became the model for civil service addresses, just as Jenckes's bill proved the prototype of the later Pendleton Act."<sup>33</sup>

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<sup>32</sup>Congressional Globe, 39th Cong., 2nd sess., January 29, 1867: 837-841.

<sup>33</sup>Hoogenboom, p. 28.

About a week later, on February 6, the House briefly debated the Jenckes measure, and then voted to table it. The principal opposition came from Representative Frederick Woodbridge, a Vermont Republican. His critique was couched in eloquent but acrid language. For example, he observed:

The theory of the bill is perfect. It raises a superstructure which it is delightful to gaze upon; and when gilded over, as it has been by the very able and manly speech of my friend from Rhode Island [Jenckes], it would seem now to have become a magnificent house of refuge, into which the Government may retire and save itself from all the follies and weaknesses of human nature. But like all schemes, which through all time have been devised to free social organization from the natural weaknesses of man, it wants foundation.

Poets have described their Arcadia; and yet no man ever reached one. . . .<sup>34</sup>

Aside from the attacks on feasibility and practicality, Woodbridge contended that the proposed system was "anti-democratic" and hence unamerican; while the merit system perhaps flourished with beneficial results in the more stratified class-conscious societies of Europe, it was destined for failure in the United States where equality of opportunity - from rail-splitter to President - was characteristic. In a reasoned rebuttal, Jenckes noted that experiences proved that the merit system promoted rather than impeded social mobility:

But the gentleman [Woodbridge] says this system may work well in Prussia or in England, but not in America. Here he is sadly at fault. The effect of the system in England and Prussia has been, not to bring the scions of the aristocracy into the service as heretofore, but to exclude them. Those who have gone to work 'with peasant's heart and arm' have crowded out the sons of the aristocracy; and to the vigor of the hardy yeomanry very much of the perfection of the service is due. We propose hereafter to throw the door open to all the people. Let him who can best serve the people be entitled to serve them and to the reward of his service.<sup>35</sup>

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<sup>34</sup>Congressional Globe, 39th Cong., 2nd sess., Feb. 6, 1867: 1034.

<sup>35</sup>Ibid.: 1035.

There were other speeches in favor of the Jenckes bill. For example, Representative Hubbard of Connecticut observed, "I regard it as one of the most important bills ever offered here since I first had the honor to take a seat in this Hall. . . . It does not appear to have been framed by the distinguished lawyer from Rhode Island, who has charge of it, in hostility to any party, or in the interest of any party, but in the interest of the country and for the best good of all."<sup>36</sup> Ultimately the House voted to table the bill by vote of 71 to 67, a surprisingly close outcome and characterized by bipartisan alignments. According to Hoogenboom's analysis, 56 Republicans and 11 Democrats supported the Jenckes bill by voting against the measure to table, while 49 Republicans and 22 Democrats favored the motion to table and hence temporarily at least to kill the bill.<sup>37</sup>

On May 14, 1868, Jenckes presented a second major speech in the House, in reporting another substitute reform bill.<sup>38</sup> The growing animosity with President Johnson doubtless influenced the major innovation of the bill - provision for a new civil service department to be headed by the Vice President in place of the presidential commission format as contained in previous versions. Jenckes began by observing, "The proposition submitted to the House by the bill now reported is, in effect, that the Government shall adopt better means than it now uses for obtaining the services, in its subordinate offices, of the best talent it can obtain for the money it pays." He continued by reviewing his by now familiar case for civil service reform; however he did provide some new materials, a sort of preview to the Committee Report to be released later in the month (to be discussed shortly). In terms of reaction to this effort, Hoogenboom has observed: "Poor timing by

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<sup>36</sup>Ibid.: 1033

<sup>37</sup>Hoogenboom, p. 31. Actually, the official vote was 72 to 66; Jenckes changed his vote from no to yes, to facilitate subsequent reconsideration of the measure.

<sup>38</sup>Congressional Globe, 40th Cong., 2nd sess., May 14, 1868: 2466-70.

Jenckes, however, again curtailed press response to his speech. Civil service reform could not compete successfully for public interest with Johnson's impeachment trial and the approaching Republican National Convention."<sup>39</sup> In any event, at the end of his speech, Jenckes himself moved to recommit the bill.<sup>40</sup>

Probably the most lasting contribution of the Joint Select Committee on Retrenchment to the evolution of the civil service reform movement was the issuance of two important reports, relating their investigations and findings and released in 1867<sup>41</sup> and 1868<sup>42</sup> respectively. As characterized by Leonard White:

[The 1867 Report] was a sober document, asserting that a great savings would be made by making 'an entire change in the mode of appointment to, and the tenure of office in, the subordinate civil service,' proposing examinations on the model of the military and naval services, and setting out at considerable length the appointment systems in effect in Germany, France, and Great Britain. A second brief report with extensive appendices containing the opinions of scores of highly placed officials in the headquarters and field services, excerpts from Presidents' remarks, and the press, and an account of the Chinese civil service (as well as of Prussia, France, and England), was presented in 1868.<sup>43</sup>

Jenckes, as Chairman of the Joint Select Committee on Retrenchment, doubtless proved a guiding force in the preparation of both reports, with Julius Bing as clerk of the Committee apparently providing invaluable assistance.<sup>44</sup>

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<sup>39</sup>Hoogenboom, p. 43.

<sup>40</sup>Congressional Globe, 40th Cong., 2nd sess., May 14, 1868: 2470.

<sup>41</sup>U.S. Congress. Joint Select Committee on Retrenchment. Civil Service of the United States, 39th Cong., 2nd sess., House Report 8, Jan. 31, 1867.

<sup>42</sup>U. S. Congress. Joint Select Committee on Retrenchment. Report: Civil Service of the United States, 40th Cong., 1st sess., House Report 47, May 25, 1868.

<sup>43</sup>White. The Republican Era, P. 280.

<sup>44</sup>The 1868 Report explicitly conveys the Committee's gratitude to Bing: "They also acknowledge the services of Mr. Julius Bing, in his co-operation with the committee in their researches into the systems of other countries, and in digesting the reports received from the officers of our own service, and for his efficient assistance in many other matters connected with their performance of their duties." (House Report 47, May 25, 1868, p. 6). For a discussion of Bing's contributions, also see Hoogenboom, p. 40 et al.

The 1868 Report reprinted most of the previous documents and provided an outstanding compendium for future reference; as Hoogenboom noted, this Report became "the source book for civil service reformers."<sup>45</sup> The Report described briefly the current nature of the system, defining the phrase "the civil service" as "popularly used to designate all those persons in the employment of the government who are not in the military or naval service, and by whose labors the executive and administrative business of the country is carried on."<sup>46</sup> The evolution of the spoils system was traced, and its current evils enumerated. For example, Secretary of the Treasury McCulloch was quoted as follows:

The importance of retaining tried and experienced clerks can hardly be overrated. . . . There have been 531 resignations since January, 1866, many of them by persons competent and of considerable experience in their respective duties. Could ample salaries be paid and permanence of employment be assured, independent of political questions, there would be no difficulty in organizing the department on a basis greatly superior in point of efficiency than any private establishment. A single experienced clerk can often perform with ease duties that could be but indifferently discharged by several inexperienced persons. <sup>47</sup>

The Report also outlined and advocated the reform bill as defended by Jenckes in his speech in the House a couple of weeks earlier: "The remedy proposed by this bill is not based upon conjecture, or inference, or concurrence of opinion; but upon the direct and positive testimony of the greater number of the chief officers in the civil service." As further explained:

The Committee prepared a circular letter, embracing 37 questions, addressed to the principal officers in the civil service of the grade required to be confirmed by the Senate, who have under them subordinates of the class within the scope of this bill, and they have received answers to these questions from more than 450 of these superior officers. <sup>48</sup>

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<sup>45</sup>Hoogenboom, p. 45.

<sup>46</sup>House Report 47, 40th Cong., 1st sess., May 25, 1868, p. 7.

<sup>47</sup>Ibid., pp. 5-6. For a further listing of the evils of the spoils system, see pp. 13-14.

<sup>48</sup>Ibid., p. 6.



As noted previously, excerpts from the replies to the questionnaire formed lengthy appendices to the Report. According to the initial analysis of the data, as presented in Jenckes's speech of May 14, the Committee had received 446 responses; of these 362 expressed themselves "decidedly in favor of the proposed reform." Of the others, 12 expressed "a decided opposition to it," while the remainder "either did not answer the vital questions at all, or answered them evasively, or expressed the opinion that the proposed measure would be either inapplicable or ineffectual in their districts."<sup>49</sup>

The initiative of Jenckes, and particularly this 1868 Report, helped to arouse public interest in the issue of civil service reform. As Hoogenboom has noted, "While indignation over corruption in the federal civil service was not new, protests were more sustained and concerted after the Jenckes bill provided a rallying point."<sup>50</sup> And from the latter 1860's, the "press and periodical literature on civil service reform increased noticeably."<sup>51</sup> Among the new recruits to advocacy of civil service reform was George William Curtis, who as editor of Harper's Weekly first called for the passage of the Jenckes bill in 1867.<sup>52</sup> Curtis was to remain prominent in the reform movement until his death in 1892. Although a growing nucleus of reform leaders was emerging outside of Government, ". . . there was as yet no organized pressure for its [Jenckes bill] passage."<sup>53</sup>

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<sup>49</sup>Congressional Globe, 40th Cong., 2nd sess., May 14, 1868: 2470.

<sup>50</sup>Hoogenboom, p. 36.

<sup>51</sup>Van Riper, p. 66. Also see Hoogenboom, pp. 41-42.

<sup>52</sup>Reform of the Civil Service. Harper's Weekly, v. XI (March 2, 1867), p. 130.

<sup>53</sup>Hoogenboom, p. 46.

The election of President Grant in 1868 raised expectations, for Grant reportedly favored passage of the Jenckes bill. On December 16, 1868, Jenckes moved that his civil service bill be reprinted.<sup>54</sup> However, supporters of the measure were caught somewhat by surprise when on January 8, 1869, Representative John Logan, previously at least a nominal supporter of reform, launched into an extended attack on "Mr. Jenckes's bill" during the course of consideration of appropriations for the Military Academy. Objecting especially to the notion of relatively permanent tenure, Logan declaimed: "I think that the bill is bad in theory, wrong in principle, opposed to the genius and spirit of our institutions and our people, and probably unconstitutional in its legal aspects."<sup>55</sup> Jenckes provided an extemporaneous rebuttal, but Logan's speech proved effective in stirring up latent opposition, and supporters of the bill decided not to press for it during the remainder of the lameduck session.<sup>56</sup>

Jenckes again introduced his bill and delivered a speech in support of civil service reform during the first session of the 41st Congress,<sup>57</sup> and the House debated the revised measure for three days in May of 1870.<sup>58</sup> This version, as reported, called for a three-member presidential commission, to serve five-year terms; apparently with the departure of President Johnson, the proposal for a separate department headed by the Vice President was discarded, thereby removing some of the serious constitutional objections to civil service reform. Hoogenboom has described this debate on the Jenckes proposal in May of 1870 as follows:

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<sup>54</sup>Congressional Globe, 40th Cong., 3rd sess., Dec. 16, 1868: 119.

<sup>55</sup>Ibid., Jan. 8, 1869: 262.

<sup>56</sup>Hoogenboom, pp. 57-58.

<sup>57</sup>Congressional Globe, 41st Cong., 1st sess., April 5, 1869: 517-523.

<sup>58</sup>Ibid., May 3, 4, and 5, 1869: 3182, 3221, 3256.

The arguments of Jenckes and his opponents followed familiar lines. The opposition charged that offices would be further removed from the people and that the machinery was impractical. Those opposing the bill also complained that it would interfere unconstitutionally with the appointing power and would undermine executive responsibility, since a department head would no longer choose his own officers. Opponents further argued that most abuses in the civil service were the product of human frailty, which no legislation could change. Jenckes asserted that offices would be brought closer to the people and that the system of examination was practical, for large groups could be examined at one time. He further declared that the bill was constitutional, since the legislative power creating the offices could certainly prescribe qualifications for the officers. Jenckes protested that the theory of administrative responsibility did not work in practice and warned that if it were indeed impossible to improve the civil service, particularly in the New York Customhouse, the United States government had better 'abdicate its duties.'<sup>59</sup>

Although Jenckes again received a generally favorable reaction in the press, colleagues in the Congress were less enthusiastic, and Jenckes moved to recommit the bill in order to keep it alive.<sup>60</sup> Defeated for reelection in 1870, Jenckes retired from public life in 1871. But proposals for civil service reform and congressional attention thereto continued.

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<sup>59</sup> Hoogenboom, p. 72.

<sup>60</sup> Ibid., p. 73.

### III. The Grant Civil Service Commission

President Grant, as noted already, was elected on a reform platform and came out in support of civil service reform prior to his inauguration. However, the reformers became somewhat apprehensive on account of Grant's "cabinet-making"--concerned both with the procedures used and with some of the selections -- and subsequently they were disappointed with his apparent lack of initiative. But at least two members of the cabinet displayed a commitment to merit principles. Jacob Cox, as Secretary of the Interior, introduced the merit system "by departmental order dated July 1870, under which appointments in the Patent Office, the Census Bureau, and the Indian Office were to be made on the basis of competitive examinations. But the pressure on Cox from spoils politicians was too great, and, in November of the same year, he resigned." Likewise, the Secretary of the Treasury, George Boutwell, in July of 1870 instituted a system of competitive examinations for filling the lower level positions in that department; the order creating the system stipulated "written examinations adapted to a moderate standard of attainment."<sup>61</sup>

Grant provided renewed hope for the civil service reformers when in December of 1870 he specifically requested legislative action on this matter in his second annual message to the Congress:

Always favoring practical reforms, I respectfully call your attention to one abuse of long standing which I would like to see remedied by this Congress. It is a reform in the civil service of the country. I would have it go beyond the mere fixing of the tenure of office of clerks and employees who do not require 'the advice and consent of the Senate' to make

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<sup>61</sup>

U. S. Civil Service Commission. Biography of an Ideal. Washington U. S. Govt. Print. Off. [1973] p. 32.

their appointments complete. I would have it govern, not the tenure, but the manner of making all appointments. There is no duty which so much embarrasses the Executive and the heads of Departments as that of appointments, nor is there any such arduous and thankless labor imposed on Senators and Representatives as that of finding places for constituents. The present system does not secure the best men, and often not even fit men, for public places. The elevation and purification of the civil service of the Government will be hailed with approval by the whole people of the United States.<sup>62</sup>

In his history of the Grant Civil Service Commission (as discussed shortly), Murphy has characterized Grant's motives as follows: "It was expediency rather than policy that impelled him to recommend any reform in the civil service. This came only after the Republicans had suffered reverses in the 1870 congressional elections."<sup>63</sup> Fish observed, after noting the impetus provided by Grant's apparent support for reform, "Thus adjured, Congress devoted itself assiduously to the civil service; in fact, from that time on [Fish was writing in 1904], only the session of 1878-1879 has passed without formal discussion of the question. Suggestions were numerous."<sup>64</sup> While it is impossible to survey Jenckes formulations), two specific measures considered in the ensuing lameduck session deserve attention -- the Trumbull bill, and the rider to an appropriations bill (which passed).<sup>65</sup>

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<sup>62</sup>Richardson, James D. (ed.) A Compilation of the Messages and Papers of the Presidents. New York: Bureau of National Literature [1897] v.IX, p. 4063.

<sup>63</sup>Murphy, p. 32.

<sup>64</sup>Fish, pp. 212-13

<sup>65</sup>There were four reform measures besides the rider introduced in this lameduck session. Jenckes introduced still another revision, and Senators Schurz and Wilson introduced measures, the latter advocating a three-member board of examiners for each department instead of a commission. The fourth, the Trumbull bill, is discussed in the text above. See Hoogenboom, pp. 61, 86-87.



Senator Lyman Trumbull of Illinois first spoke in support of his bill on December 7, 1869, and then reintroduced the measure in the third session, following Grant's request for reform legislation in the December 1870 message.<sup>66</sup> In January of 1871 the lame duck session focused attention on the Trumbull bill and thoroughly debated it.<sup>67</sup> The consideration of the Trumbull measure is particularly interesting in historical perspective, because this was a rare occasion in which the Congress devoted serious attention to the political referral issue in recruitment to the Federal civil service.

The Trumbull bill sought "to relieve members of Congress from importunity, and to preserve the independence of the different Departments of the Government." In effect, the bill prohibited all Congressional recommendations concerning employment in the Federal service. It provided, specifically:

That hereafter it shall be unlawful for any member of either House of Congress, or Delegate from a Territory, verbally or in writing, to solicit, recommend, or advise the President of the United States, or any head of a Department, or of any bureau thereof, to appoint any person to office or employment; and it shall be unlawful for the President or any head of a Department or bureau to make any appointment so solicited, recommended, or advised, on the privity of the applicant; and any person who shall violate this act shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not exceeding \$1,000; Provided, That this act shall not apply to the action of Senators upon nominations submitted by the President to the Senate.<sup>68</sup>

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<sup>66</sup> Congressional Globe, 41st Cong., 2nd sess.: 17, 1078.

<sup>67</sup> Congressional Globe, 41st Cong., 3rd sess.: 292-95, 399-403, 458-62, 665-74, 690-94, 723-24, 778-82.

<sup>68</sup> Ibid., p. 292. Apparently Trumbull's initial proposal was more lenient; he wished to allow the President to continue receiving recommendations upon his request from Members. However, the Committee disagreed and reported this version banning all Congressional recommendations.

During his speeches in support of the measure, Trumbull quoted at length from a recent article by former Secretary of the Interior Jacob Cox.<sup>69</sup> For example, Trumbull cited the "remedy" suggested by Cox as a "proper one." As he quoted from the article during the House debate:

To apply to the civil service, completely and thoroughly, the plain principles of common business administration; to separate the public offices, absolutely and forever, from all favoritism, nepotism, and 'influence;' to declare patronage in all its forms to be anti-republican and dangerous to the State; to find and practice upon a principle of selection for office which shall give every citizen of the country a perfectly equal chance to prove his capacity and fitness for the public service; and to obtain a position in it when he has made the proof, with thorough independence of President, Secretary, or Congressman, and simply and solely because of his citizenship and his fitness. . . .

The entire separation of the civil service from the control of politicians would secure a thorough and impartial congressional criticism of all the administrative bureaus and their operations. The sloth and incompetence found in any Department now is known by the members of Congress to be in no small measure due to the fact that their own friends and dependents have been forced into places. They know, also, that the pruning-knife would reach their own scions as quickly as another's if retrenchment under a better system were begun; and it requires no ordinary character to pass a 'self-denying ordinance' of that kind. . . .<sup>70</sup>

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<sup>69</sup> As noted previously, during his brief stint at Interior, Cox instituted a system of competitive examinations. The article, which appeared in the January 1871 issue of North American Review, concluded with this passage:

"From whatever point we view it, therefore, in its collateral as well as in its direct consequences, a reform of the civil service promises nothing but good, and we may reasonably hope to see the day when the present opponents of the reform will be anxious to hide from public notice the fact that they tried to prevent those who (to use again the language of the English statesman) would withdraw patronage from the dominion of party and give it to the people." (v. CXII: 113)

<sup>70</sup> Congressional Globe, 41st Cong., 3rd sess.: 401.

In calling for the passage of his bill on one occasion during the debate, Senator Trumbull concluded:

This bill, if passed, will have the effect to render the Departments independent. It will make the head of every Department responsible for the appointments which he makes, and no Secretary will then venture to have in his employ double the number of clerks required. Congress will hold him responsible when the responsibility is put on him. It will make members of Congress independent also, and it will relieve them from obligations to the President and heads of Departments. It will take away a source of temptation; and in cases where bad and corrupt men occupy positions in Congress (not an impossibility) it will impair their power to corrupt and debauch the public service. And it will restore appointments to the executive department where the Constitution places them, and to the people, where they belong.<sup>71</sup>

Various Senators spoke in favor of Trumbull's measure to prohibit Congressional referrals. For example, Senator Patterson stressed the need for competence and continuity in the public service:

I, of course, wish all men in office and out were Republicans, but I do not want this convulsion in public business every four years by turning out and appointing fifty thousand men; and it is no more necessary to the interests of party than that a merchant or manufacturer should require one kind of politics only in his work. I contend that this practice is a source of weakness; for if you make fifty thousand zealous political friends by appointment, you make five times that number of malcontents and opponents by disappointments.

Now, sir, what are some of the results of sending out this immense body of men all over the country? In the first place it has a tendency to create great political excitement and so to shock and convulse the country every time there is an election by throwing into the canvass such a body of zealous and fiery politicians, making the prizes of office an apple of discord. In the second place it enhances fearfully the corrupting power of patronage. . . .

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<sup>71</sup>Ibid., p. 403.

Patterson concluded with a call to return to the practices of the early Presidents:

In closing, sir, I affirm that there is no way to rid ourselves of the evils of our present civil service but to go back to the practice of the Administrations of Washington, of the older and the younger Adams, of Madison and Monroe, and make our appointments in consideration of the qualifications, the ability and the integrity of the appointees, and remove only for such causes as would justify a discharge from private employment, I am as anxious as others for the triumph of my party, but I feel constrained to advocate what I am sure is for the safety and permanent welfare of the Republic.<sup>72</sup>

But there were also vocal critics of the bill. One of the most adamant opponents was Senator Oliver Morton of Indiana, who had received ample spoils to dispense, for supporting Grant on a crucial issue. Morton began by observing, "The bill, in my opinion, is unconstitutional from beginning to end, and proceeds upon false principles."<sup>73</sup> On a subsequent day, when the debate on the referral bill was resumed, Morton attacked Trumbull's contention that offices ought to be appointed without regard to politics and instead defended the practicality and desirability of the status quo:

But the Senator [Trumbull] says that officers ought to be appointed without regard to politics. Whenever you can carry on this Government without regard to politics that doctrine will do. But this is a Government of the people and a Government of public opinion, in which the mass of the people take a deep interest, as they do not in England and in countries on the continent of Europe. Just so long as the character of this Government continues as it is appointments will continue to be made with reference to politics; and no system can be devised that will prevent it. I do not care how many competitive examinations you institute, or whether you make the tenure for life or a tenure for ten years, you cannot change that thing unless you change the character of the Government. But what propriety is there in it? A man high in office, who has climbed up the political ladder,

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<sup>72</sup>Ibid., appendix, p. 57.

<sup>73</sup>Congressional Globe, 41st Cong., 3rd sess.: 294.

may then turn around and slap the faces of his friends who helped him up, if they should want appointments, and call that virtue! Would it make it virtue?  
 . . .

But it is said the member of Congress will recommend his own friends. Well, sir, after all it is not a very bad thing for a man to recommend his own friends, provided they are as well qualified as somebody else's friends. He has to recommend somebody's friends and if he recommends his own, provided they are as well qualified as another man's friends, what is there wrong about it? The point I make is that as the thing stands now, a Senator or a member of Congress is held responsible at the bar of public opinion for an appointment, it being supposed that he recommended it, and therefore if he does recommend his friend the President has the assurance that he will recommend a good friend, one that is qualified and respectable, because if he fails to do it the responsibility for it will fall upon him, in common with the Administration.<sup>74</sup>

Although there was this extended debate on the Trumbull proposal, the bill was never brought to a vote. Finally, Congressional reform leaders, recognizing the need for coalescing the supporters of the respective bills around a single proposal, agreed upon a simple resolution. On the last day of the lameduck session in March of 1871, Senator Trumbull in desperation offered this compromise proposal as a rider to a civil appropriations bill. An effort to table (and effectively to kill) the amendment failed by a single vote (26 to 25), whereupon the Senate approved the rider by vote of 32 to 24. The measure as then rushed to the House at 3 a.m.; Henry Dawes as manager of the needed appropriations bill there, recommended concurrence with all the Senate amendments, since there was no time for a conference committee. Representatives Garfield and Armstrong spoke in favor of the civil service rider, while Logan denounced it. The House passed the appropriations bill with the Senate amendments by vote of 90 to 20.<sup>75</sup>

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<sup>74</sup> Ibid., p. 461

<sup>75</sup> Ibid., p. 1997.



As Van Riper has noted, "In this undistinguished and not entirely legitimate fashion, the first modern civil service legislation in American history came into being."<sup>76</sup>

The "rider" consisted of one sentence:

That the President of the United States be, and he is hereby, authorized to prescribe such rules and regulations for the admission of persons into the civil service of the United States as will best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose the President is authorized to employ suitable persons to conduct said inquiries, to prescribe their duties, and to establish regulations, <sup>77</sup>for the conduct of persons who may receive appointments in the civil service.

So although Congress proved itself unable to enact specific reform legislation, the brief but broad authorization contained in the rider allowed the President to proceed with reform via executive rules and regulations. As White observed: "The rider was less a token of Grant's leadership than it was a concession to outside opinion, built up steadily for four years around Jenckes' speeches, committee reports, and bills. Congress was not persuaded to legislate reform but it did reluctantly permit the executive branch to proceed."<sup>78</sup> More remarkably, perhaps, "this early legislation is still in force and is yet considered a primary source of presidential authority in federal personnel management."<sup>79</sup>

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<sup>76</sup>Van Riper, p. 68.

<sup>77</sup>16 Stat. 475 at 514 (March 3, 1871).

<sup>78</sup>White. The Republican Era, p. 282.

<sup>79</sup>Van Riper, p. 70.

Our knowledge of the operations and lasting contributions of the Grant "experiment" (as it has been called), is largely derived from a series of articles written by Lionel Murphy, who based his analysis on a scrutiny of the book of minutes maintained by the Commission.<sup>80</sup> To the surprise of many Grant chose to utilize the authority conferred by the civil service rider, and on June 7, 1871, appointed seven persons to the Civil Service Commission, some from private life and some Federal employees. The two most prominent members were reform leader George William Curtis, who served as Chairman, and Joseph Medill, the owner of the Chicago Tribune.

At an initial meeting, discussion soon turned to the scope of authority possessed by the Commission; it was "the unanimous opinion of the members that their powers were advisory, not executive, and were limited to the preparation of rules and regulations for the approval of the President."<sup>81</sup> Also at an early session a fundamental difference of opinion between Curtis and Mendill emerged: whether the starting point should be security of tenure or competitive examinations, emphasis on removal or appointment. As Murphy noted, "Mendill's main contention was, 'it should be difficult to get out of the public service,' while Curtis' view was that 'it should be difficult to get in.' "<sup>82</sup> Eventually the position of Curtis was adopted. But meanwhile, the exploratory discussions had raised sufficient constitutional questions regarding the appointing power as to necessitate an opinion by the Attorney General.

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<sup>80</sup> Murphy, Lionel V. The First Federal Civil Service Commission: 1871-75. Public Personnel Review, v. 3 (1942). Part I: 29-39; Part II 218-231; Part III: 299-323.

<sup>81</sup> Ibid., p. 34.

<sup>82</sup> Ibid., p. 218.

Attorney General Ackerman transmitted his opinion on August 31, 1871.<sup>83</sup>

In essence, he upheld the constitutionality of competitive examinations administered by an independent body, provided that the appointing authority retained some discretion. Ackerman reasoned that Congress could not by law delegate ultimate appointing authority to the Commission, when the Constitution provided that such power as to be confined to the President, Department heads, and the courts of law. The opinion concluded:

Accordingly, an act requiring the President, the courts, and heads of Departments to appoint to office the persons designated by an examining board as the fittest would be at variance with the Constitution, inasmuch as it would virtually place the power of appointment in that board. But though the results of an examination before such a board cannot be made legally conclusive upon the appointing power, against its own judgment and will, yet it may be resorted to in order to inform the conscience of that power.

And notwithstanding that the appointing power alone can designate an individual for an office, still, either Congress, by direct legislation, or the President, by authority derived from Congress, can prescribe qualifications, and require that the designation shall be out of a class of persons ascertained by proper tests to have those qualifications.

With the legal matter settled, the Commission resumed its drafting activities. In November of 1871 Curtis informally provided for Grant and his Cabinet a copy of the tentative rules as then constituted. The draft was favorably received, and on November 29th the Commission approved the draft rules as amended. As summarized by Murphy, the rules provided as follows:

All applicants for admission to the civil service were required to be citizens, should offer satisfactory evidence regarding health, character, and age, and must be able to use the English language. All positions were to be classified into groups, and vacancies were to be filled in the lowest grades of each group. Open competitive examinations were to be used for testing applicants for all positions not otherwise exempted from the rules. The President was to appoint a board of examiners in each department, which, under the supervision of the Commission, was to conduct the examinations and certify eligibles, from which the appointments were to be made from the three highest on the register. Every appointee was required to serve a probationary period of six months. Vacancies in the higher grades of each group were to be filled by promotional competitive examinations. Employees incapacitated by reason of age or accident from retaining positions in the upper grades could be employed in lower grades. A prohibition against

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<sup>83</sup>13 Op. Atty. Gen. 516.

political assessments was also incorporated.<sup>84</sup>

Curtis then prepared a Report to accompany the rules and forwarded them to President Grant. The Report<sup>85</sup> drew upon the Jenckes Reports and reflected a recognition of the political context in which the Commission was operating:

The Commission faced the realities of the moment. On the one hand, the Commission regarded itself as an agent of the President, the office of which, with its constantly increasing responsibilities, was still engaged in battle with the Senate over supremacy in national administration. And on the other hand, it realized that it could not immediately remove all the evils of patronage and that only by experimentation would an improved civil service be attained. Further, it recommended only measures that were clearly within the Congressional intent of the meaning of the Act, for without the support of Congress, even of its mere tolerance, all would be to no avail. . . .<sup>86</sup>

On December 19, 1871, a day after receiving the documents himself, Grant transmitted the Report of the Commission and the recommended rules to the Congress, and announced via an Executive Order an effective date of January 1, 1872.

The Commission, temporarily transformed into the "Advisory Board of the Civil Service," had to seek a delay in the effective date as stipulated by Grant, in order to allow for time to draw up the regulations containing the administrative details needed for implementing the rules. This was done, and on April 16, 1872, Grant issued an order incorporating the rules as adopted in December, the regulations as amended, and a schedule of groups of positions in the respective departments, to go into effect on May 16th. On June 5, 1872, the Treasury Department held the first competitive examinations.

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<sup>84</sup>Murphy, p. 220.

<sup>85</sup>Report of the Commission appointed to devise Rules and Regulations for the purpose of Reforming the Civil Service. Sen. Ex. Doc. No. 10, 42nd Cong., 2nd sess., December 1871.

<sup>86</sup>Murphy, p. 227.

Following his reelection in 1872, Grant still professed his support for the Commission, but sanctioned increasingly more political appointments, so that "his actions continued to belie his vocal and written declarations in favor of reform."<sup>87</sup> After a particularly flagrant patronage selection by Grant, Curtis resigned in protest from the Commission in March of 1873. But again Grant surprised everyone by appointing Dorman Eaton, a prominent New York attorney, expert in municipal affairs and acknowledged reformer, to replace Curtis.

Eaton worked diligently and provided a "progress report" on June 4, 1873, which also contained new supplementary rules. This was followed by the so-called "first annual report" on April 18, 1874, which provided a "commentary on the problems of the civil service, "and also contained "appendices of information about administrative problems and the work of the Commission."<sup>88</sup> The 1874 Report surveyed both legal and practical matters.<sup>89</sup> Noteworthy was the discussion of the role of political parties as beneficial instruments, and the necessity of selecting some officials for political loyalties. In this regard the Commission concluded: "The line must then be drawn somewhere, below which party policy and opinions are not most important, but above which certain views of policy and politics may be essential."<sup>90</sup>

But by this point Congressional support for the experiment was waning. During consideration of its appropriation bill, the House voted to repeal the rider,

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<sup>87</sup>Ibid., p. 306.

<sup>88</sup>Murphy, p. 309.

<sup>89</sup>Report of the Civil Service Commission, Sen. Ex. Doc., 43d Cong., 1st sess., 1874 (184 pp.).

<sup>90</sup>Ibid., cited by Murphy, p. 312.



while the Senate approved a \$15,000 appropriation. The two versions could not be reconciled in conference, and so the authorizing legislation remained in effect but appropriations lapsed.<sup>91</sup>

In his annual message of December 1874 Grant issued an ultimatum: "If Congress adjourns without positive legislation on the subject of 'civil service; reform, I will regard such action as a disapproval of the system and will abandon it." Congress took no action, and on March 9, 1875, Grant announced the termination of the civil service rules and regulations and the abolition of all the examining boards. But as Murphy has stressed, "The Civil Service Commission left a legacy both in law and in practice. Many of the rules and regulations of the 1870's were subsequently adopted directly or at least adapted, after the passage of the Pendleton Act in 1883. Moreover, as Murphy has observed:

Much of the terminology and many of the concepts employed in the proceedings, reports, and other recorded activities of the Commission still prevail. Among these are: 'Civil Service Commission rules,' 'application,' 'test,' 'grade,' 'eligible,' 'ineligible,' 'register,' 'military preference,' 'position,' 'vacancy,' 'apportionment,' 'probation,' 'promotion,' 'classification,' 'superannuation,' 'political assessments,' 'pernicious political activity,' 'boards of examiners,' 'ratings of 70 percent,' 'three highest eligibles,' 'policy-deciding officials,' 'certificate,' and many others.

Most significant of all is the fact that the principle of competitive examination was adopted in a form the nature of which was very closely analogous to the British application and administration. Also of considerable significance is the fact that the examinations developed and used from 1872 to 1875 served as a basis for those used in 1883. . . .

Thus a small group of men, without a popular following but skillful in speech and phrase in behalf of a new political morality, forced a trial in administrative reform upon a hostile Congress and an unenthusiastic President.<sup>92</sup>

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<sup>91</sup>Congressional Record, 43rd Cong., 1st sess., June 11, 1874: 4888-96.

<sup>92</sup>Murphy, p. 322.

### III. Stalemate before Ultimate Success

As the operation of the first Civil Service Commission was ceasing do to lack of appropriations, the scandals in the Grant Administration were increasing (e.g., the discovery of the "whiskey ring" which had defrauded the Government of millions of dollars). Such episodes provided additional incentive for the reformers to revamp their efforts and continue the struggle for civil service reform. But by and large the period from 1875 to 1882 was one of stalemate.

The presidential election of 1876 was riddled with controversy, and Rutherford B. Hayes was ultimately declared the winner less than a week before the inauguration. Although the issue of civil service reform played a minor role in the campaign, in his inaugural address Hayes reaffirmed the pledge made in his letter accepting the nomination:

I ask the attention of the public to the paramount necessity of reform in our civil service -- a reform not merely as to certain abuses and practices of so-called official patronage which have come to have the sanction of usage in the several Departments of our Government, but a change in the system of appointment itself; a reform that shall be thorough, radical, and complete; a return to the principles and practices of the founders of the Government.<sup>93</sup>

As President, Hayes made repeated requests for reform legislation and revival of the Grant Commission. In his third annual message, which provided an opportunity to forward to the Congress a study of the English civil service prepared at his request by Dorman Eaton.<sup>94</sup> Hayes made a particularly strong plea for reform: "The authority of appointment and removal is not a prerequisite, which may be used to aid a friend or reward a partisan, but is a trust, to be exercised in the public interest under all the sanctions which attend the obligation to apply the public

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<sup>93</sup>Richardson, Messages and Papers, v. IX, p. 4396.

<sup>94</sup>Eaton was officially still Chairman of the Civil Service Commission, although it was by this time of course inactive. This influential report that he prepared was initially released as a public document and subsequently as a commercial publication which enjoyed considerable circulation: *Civil Service in Great Britain: A History of Abuses and Reforms and Their Bearing upon American Politics* (New York: Harper and Brothers, 1880).

funds only for public purposes." <sup>95</sup>

But the Congress remained unresponsive, for the most part. One mild measure in 1876 did seek to control political assessments on government workers, one of the most offensive features of spoils practice.<sup>96</sup> The measure was designed to have limited effectiveness, according to Van Riper: "While this statute contained penalties for infractions, it forbade only officers not confirmed by the Senate to give or to receive assessments as among each other. It had been passed during the campaign more as a stop to reform than anything else."<sup>97</sup>

During these years reform objectives were advanced somewhat by executive direction. For example, on June 22, 1877, President Hayes issued an Executive Order calling for political neutrality on the part of Federal employees and indirectly emphasizing his commitment to the 1876 law relating to assessments. The directive, addressed to Federal officers in general, provided:

No officer should be required or permitted to take part in the management of political organizations, caucuses, conventions, or election campaigns. Their right to vote and to express their views on public questions, either orally or through the press, is not denied, provided it does not interfere with the discharge of their official duties. No assessment for political purposes on officers or subordinates should be allowed.<sup>98</sup>

Hayes also attempted to confront directly the situation in the New York City Customhouse, a bastion of patronage excesses. However, the President's initial

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<sup>95</sup>Richardson, P. 4514.

<sup>96</sup>Section 6 of the Act of August 15, 1876 (19 Stat. at l. 169), provided that "all executive officers or employees of the United States not appointed by the President, with the advice and consent of the Senate, are prohibited from requesting, giving to, or receiving from, any other officer of the government, any money, property, or other thing of value for political purposes."

<sup>97</sup>Van Riper, p. 75.

<sup>98</sup>Richardson, pp. 4402-03.

motives in this undertaking apparently involved concern for Republican Party internal factions as well as concern for reform.<sup>99</sup> Despite bitter disagreements within his own party, Hayes succeeded in removing the Collector of Customs (future President Arthur) in 1878, and eventually managed to get a successor confirmed. Then in March of 1879 the President issued an order calling for appointments on the basis of competitive examinations. An ardent civil service reformer, Silas W. Burt, Naval Officer of the Port of New York, was charged with devising the necessary code of rules for the Customhouse. These rules were greeted with acclaim by the reformers, and subsequently were forwarded to collectors of other ports for consideration; by the end of Hayes' Administration, serious application was attempted in Boston and Philadelphia. In 1880, under the leadership of Postmaster Thomas James, competitive examinations as provided for initially by the rules of the Grant Commission were revived for portions of the New York City Post Office as well.<sup>100</sup>

Meanwhile, the act of 1853 calling for pass examinations remained in effect, although its application was most uneven: "In the departments the nature and quality of such examinations as prevailed varied according to the attitudes of Secretaries and bureau chiefs. Each department head was allowed to fix his own standards within the broad range of the act of 1853..."<sup>101</sup> Carl Schurz, a leading reformer who had previously championed civil service reform while in the Senate, was appointed by Hayes to be Secretary of the Interior. Under his leadership, Interior became something of a "showpiece": "With full support from the President, the reformer-politician at its head revived the examination procedure briefly

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<sup>99</sup> For a discussion of the complexities of the situation, see Hoogenboom, pp. 155-178.

<sup>100</sup> Ibid., pp. 173-174.

<sup>101</sup> White, *The Republican Era*, p. 288.

established in 1871 and put the Department so far as possible on the merit basis."<sup>102</sup>

Despite the demise of the Grant Commission and the apparent stalemate in the Congress regarding the subject in the latter 1870's, the advocates of civil service reform continued their efforts to gain support. At this point a brief digression on the so called "civil service reformers" is necessary. Reference has already been made to various leaders -- George William Curtis, Carl Schurz, Derman Eaton, Silas Burt.<sup>103</sup> The relatively small group of persons initially associated with the movement exercised an influence far exceeding their number. As characterized by Van Riper:

...For the most part, the reform was initiated and carried through by a comparatively few individuals representing the top strata of politics, law, business, journalism, and education. These few used their unusually large personal influence, their avenues of publicity, their writing ability, and their oratory to bear down heavily upon the evils of the spoils system. Thus a small group of predominately wealthy and politically conscious easterners with a philanthropic turn of mind, aided by an aroused public opinion, laid the basis for the Pendleton Act of 1883.<sup>104</sup>

Not surprisingly, the civil service reformers included among their ranks some of those some intellectual and social leaders who had been active abolitionists and subsequently were to become ardent anti-imperialists.<sup>105</sup> The philosophy of the reformers contained heavy moral overtones. Writing with specific reference to Curtis, but with applicability to the outlook of other reformers as well, Stewart noted: "He attributed much of the political corruption of the day to the evils of patronage. To destroy the spoils system would purify politics and regenerate the public life of the times. Always the moral aspects of reform were foremost in

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<sup>102</sup>Ibid., p. 289.

<sup>103</sup>For brief biographies of such major leaders in the reform movement, see Stewart, pp. 8-18.

<sup>104</sup>Van Riper, p. 80.

<sup>105</sup>Rosenbloom, David H. *Federal Service and the Constitution*. Ithaca, New York, Cornell University Press, 1971 pp. 71-72.



his mind." <sup>106</sup> At the outset of their "crusade" the reformers had considerable impact operating essentially as individuals; as noted already, the national press was generally sympathetic to the issue. And in 1876 both the Democrats and the Republicans included a civil service reform plank in their platforms, although the depth of commitment remained questionable. But it was becoming apparent that a widespread public education effort and more effective lobbying in the Congress would be facilitated by greater organization of the respective individuals.

In May of 1877 the New York Civil Service Reform Association was organized, the first group of its kind in the country, with Reverend Henry W. Bellows elected as President and Dorman Eaton as Chairman of the Executive Branch. Because of internal frictions, the group initially floundered. However, the Presidential order of 1879 requiring the use of competitive examinations in the New York City Customhouse and the revival in 1880 of competitive exams in parts of the Post Office there, stimulated great popular interest and led to a revitalization of the by now somewhat defunct reform association. In October of 1880 the old New York Civil Service Reform Association was reorganized and new officers were elected, including George Curtis as President and Everett P. Wheeler as Chairman of the Executive Committee.<sup>107</sup> Following this reorganization a Committee on Legislation was appointed, headed by Eaton. In December of 1880 the Committee reported a draft bill and after discussion and minor changes, the Association approved the measure of December 30, 1880, and instructed the Committee on Legislation "to present it to Congress and promote its enactment into law."<sup>108</sup>

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<sup>106</sup> Stewart, pp. 11-12.

<sup>107</sup> Ibid., pp.23-24.

<sup>108</sup> Ibid., p. 24.

In the fall of 1880 the New York Association also appointed a Subcommittee on Affiliated Societies; its mission was to stimulate the formation of similar groups in other locales to press for civil service reform and to nurture correspondence between such groups. A conference was held in the summer of 1881 in Newport at which thirteen local associations were represented, with many prominent reform leaders in attendance. The "outstanding accomplishment" of the conference was the organization of the National Civil Service Reform League (NCSRL), as a confederation of local groups to serve as a central clearinghouse for information and to facilitate concerted action among reform groups. The conference went formally on record in favor of Eaton's reform bill and specific components of a merit system, while recording opposition to practices such as arbitrary removals from office. Internal structure for the NCSRL was developed early in 1882; according to Stewart:

Organized under this constitution, the League during the next four years carried on a militant campaign for the merit system, directed toward four major objectives: (1) To gain public support for the reform through a campaign of publicity and education; (2) To secure legislation in Congress and state legislatures and city councils; (3) To fight the evil of political assessments by exposing the methods of the spoilmen and by prosecuting suits for the violation of the law; and (4) To elect a President favorable to the honest enforcement of the civil service act.<sup>109</sup>

Still another important committee created following the reorganization of the New York group in the fall of 1880 was that concerned with publications. Headed by Edwin Godkin, editor of the Nation, this Publications Committee quickly displayed prolificness. As related by Hoogenboom:

By May 5, 1881, the publication committee had issued five pamphlets -- a statement of the purposes of the association, an excerpt from Parton's Life of Jackson describing the "introduction" of the spoils system in federal offices, and three government documents. These publications were widely circulated. Out of the 10,000 printed copies of the statement of purposes 650 were distributed to members, 450 to affiliated societies, 3,000 were furnished to the press, 200 were gratuitously distributed, and 4,454 were sold. Reformers resourcefully distributed 10,000 of the 15,000 copies of Parton's pamphlet among the crowds gathered at Washington for Garfield's inauguration.<sup>110</sup>

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<sup>109</sup>Ibid., p. 30.

<sup>110</sup> Hoogenboom, p. 190.

Reformers tended to view Garfield's election in 1880 with cautious optimism. Although he had shown a predisposition to favor reform efforts while in Congress, during the campaign he seemed to veer away from this position. And the selection of Chester Arthur, so recently displaced as spoilsman-Collector of Customs in New York, as his running mate was poorly received by reformers.

However, amidst the election campaign the civil service reform movement began to emerge as a powerful pressure group. Also, in the aftermath of the results, many Democrats for the first time began to take the reform issue seriously:

After Garfield's election many Democrats began to advocate civil service reform. The Democratic press called for reform legislation in the next session of Congress, and the Democratic law house of the South Carolina legislature urged its senators and representatives to support reform. Respectable Democrats in New York met at Abram Hewitt's house after the election 'to talk over the situation and see what to do.' They appointed a committee of ten to make recommendations. It is safe to surmise that this committee was partial to reform since it included two members of the executive committee of the New York Civil Service Reform Association, as well as Hewitt, who later championed reform in Congress. Although some reformers watched 'the Democratic outburst of virtue and sound principles with amused interest but without sanguine expectation,' others were hopeful of tangible results.<sup>111</sup>

In his final message to the Congress in December of 1880 Hayes once again called for civil service reform and requested a \$25,000 appropriation to reactivate the Grant Commission. At the request of Senator George Pendleton, these suggestions of Hayes were referred to committee, and on December 15, 1880, Pendleton introduced bills to prevent political assessment and to reform the civil service.<sup>112</sup>

Previously Pendleton, an Ohio Democrat, had not been particularly active in support of civil service reform. However, before introducing the bill he consulted with reformer Silas Burt, and then introduced a measure similar to earlier Jenckes proposals. After lengthy discussion with Dorman Eaton of the New York Association's

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<sup>111</sup> Ibid., p. 198.

<sup>112</sup> Congressional Record, 46th Cong., 3rd sess.: 49, 144.

Legislative Committee in January of 1881, Pendleton agreed to introduce their draft bill in slightly modified form as a substitute for his own measure; this version was thus largely the work of Eaton.<sup>113</sup> Actually, both Pendleton's original bill and the draft bill were similar, but certain aspects of the former were of questionable constitutionality: "Both provided for a commission and competitive examinations, but the association's bill did not infringe upon the executive's right of removal and also limited the bill's application outside of Washington to post offices and customhouses employing over fifty men."<sup>114</sup>

On February 16, 1881, Senator Pendleton reported the bill from the Select Committee to examine the several branches of the Civil Service. Although the lameduck session adjourned without considering the report titled "The Regulation and Improvement of the Civil Service," the contents are of considerable interest, since the bill in question was the direct predecessor to the 1883 Act. The Report itself runs twelve pages, with an appendix about three times that length.<sup>115</sup>

The Report acknowledged the necessity of selecting a few high officials with due regard to political opinions, but argued for the appropriateness of merit recruitment for most Federal positions:

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<sup>113</sup> Eaton explained the course of events as follows:

"Acting on instructions from the Association, I presented a copy of this new bill to Senator Pendleton early in January, 1881, and soon after to Mr. Willis who had introduced reform proposals in the House. It was a delicate matter to ask the Senator to abandon a bill with which his name had become identified and to substitute for it another with very different provisions, and this on the ground that the so called 'Pendleton bill' not only contained provisions repugnant to the Constitution but provided for practical methods which could not be carried into effect. Yet without such a substitution a conflict, likely to be fatal to the cause of Reform, seemed unavoidable. Senator Pendleton became convinced that the objections to the bill he had presented were fatal, and he patriotically and magnanimously undertook to substitute the new bill in its place. On the 10th of January, 1881, he presented the latter bill in the Senate, which, like the former, was designated the 'Pendleton bill.'" Cited by Stewart, pp. 24-25.

<sup>114</sup> Hoogenboom, p. 202

<sup>115</sup> Senate Report 872, 46th Cong., 3rd sess., February 16, 1881.

It is conceded that the party in power must fill the higher official places with persons who fairly represent its principles and policies, and subject to whose legal instructions the whole subordinate administration is to be carried on. The party majority must be allowed to fill all elective offices, and hence can control legislation. But the subordinates in the Executive department, whose duty is the same under every administration, should be selected with sole reference to their character and their capacity for doing the public work. This latter class includes all but a few of the vast numbers of appointed officials, who carry into effect the orders of the Executive and of the heads of departments, whether at Washington or in other parts of the Union. 116 (*Italics added*)

The Report then reviewed the history of the Grant Civil Service Commission, citing in full the passage from the Commission's 1874 report spelling out the beneficial results supposedly accruing from the competitive examination system. The Report in 1881 also noted the repeated requests from Presidents Grant and Hayes for continued appropriations, but the lack of congressional action, thereby concluding: "It was therefore Congress, and not the Executive, which arrested the new system based on character, capacity, and common justice." The Report further observed:

Results so uniform and so salutary in diverse offices, through a series of years and under successive administrations, from the trail of open competition for testing personal fitness for office, the committee must regard as ample reason why Congress should now take appropriate action for giving the system the extended application thus repeatedly recommended by President Grant and President Hayes. 117

Finally, the Report cited statements from a congressional speech by James Garfield in 1870 and from an article by him appearing in the Atlantic Monthly for July, 1877, the latter excerpt as follows:

One-third of the working hours of Senators and Representatives is hardly sufficient to meet the demands made upon them in reference to appointments of office...

The present system...impairs the efficiency of the legislators;... it degrades the civil service;...it repels from the service those high and manly qualities which are so necessary to a pure and efficient administration; and finally, it debauches the public mind by holding up public office as the reward of mere party zeal.

To reform this service is one of the highest and most imperative duties of statesmanship. 118

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116 Ibid., pp. 6-7.

117 Ibid., pp. 9-10.

118 Cited *ibid.*, p. 11.



Thus, concluded the Report, the Committee, in recommending passage of the reform bill, was concurring with the opinion of the President-elect as well as with that of his two predecessors. The appendix to the Report contained a record of the Committee hearing held on January 13, 1881, at which various leaders of the League spoke. For example, Eaton advocated the gradual approach, so that at the outset the application of the competitive exam system "be limited to the departments at Washington, to a few of the larger customhouses, and to a few of the larger post offices, because it could not be introduced all at once. It would have the great advantage by that course of winning its way by showing its superiority where it was first applied." He also stressed that the matter of the competitive examinations was entirely separate from the question of tenure of office: "You can have the tenure long or short, as you please, under a system of examinations, as well as under a system of patronage."<sup>119</sup>

Garfield's first few months in office were not suspicious for the reformers. Problems returned to the New York Customhouse, and frauds were exposed in the Post Office Star Route system. Additional actions pointed to a reversal of the limited reforms achieved under Hayes, as the "showpiece" merit system at the Interior Department was scuttled, and steps were taken to discontinue competitive exams at the New York Customhouse as well.<sup>120</sup> But as the pressures of the office seekers continued to beleaguer officials in the Garfield Administration, a greater sympathy for the reformers was developing.

But before Garfield could demonstrate his "reconversion" to reform principles, he was assassinated. On July 2, 1881, the President was shot in a Washington railroad station; while his recovery seemed likely for a time, he died of complications on September 19th.<sup>121</sup> The assassin, Charles Guiteau, was a deranged and disappointed

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<sup>119</sup> Ibid., pp. 15, 17.

<sup>120</sup> Hoogenboom, pp. 204-208.

<sup>121</sup> For a popularized narrative, see: Tom Kelly. *The Slow and Lingering Death of James A. Garfield*. Washingtonian, v. 12 (Oct., 1976): 125-131.

office-seeker, who also had delusions regarding his appointed role in the factional frictions within the Republican Party.<sup>122</sup>

The Garfield assassination and lingering death provided a vivid issue for the reformers to hammer home in the public mind -- spoils equals murder. Not surprisingly, the public outcry was massive. As Eaton declared, shortly after Garfield's death:

...With marvelous promptness and unanimity, hardly less in foreign countries than among ourselves, the source and significance of Guiteau's sets have been found in our spoils system of administration... From a thousand pulpits the great fact, with solemn admonitions, has been pre-claimed. On the myriad pages of our journals, of every section and class, the truth has been daily uttered in words of mingled anxiety, shame, and detestation.<sup>123</sup>

In his widely utilized textbook on public administration, Stahl offers the common interpretation that the assassination of Garfield was instrumental in gaining support for legislation. He writes:

Four developments are the most important in finally leading to the historic Civil Service Act of 1883: the courage and dogged persistence in advancing reform by such idealists as George William Curtis; the organization by 1877 of the New York Civil Service Reform League; the report on the British civil service prepared by Dorman B. Eaton, appointed by President Hayes; and the assassination of President Garfield at the hands of a disappointed office seeker.<sup>124</sup>

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<sup>122</sup> Hoogenboom provides this biographical sketch of Guiteau:

"Guiteau was obviously insane. Before shooting Garfield he had a long and fantastic career as a member of the Oneida Community, a lawyer, an insurance salesman, and an evangelist. He rarely made a living at these vocations but got along in life by swindling innumerable hotels, railroads, and haberdashers. After plunging into politics to support Greeley in 1872, he neglected that pursuit until 1880. He wrote an incoherent speech, which was never delivered in full, favoring Garfield for the Presidency, and became convinced that this speech was responsible for Garfield's election. He attempted to get the Austrian mission but soon decided to settle for consul at Paris. He plagued both Blaine and Garfield for weeks and provoked the former and was barred from the White House by the latter. Rebuffed, Guiteau began brooding over the way the Republican party was split between Conkling and Garfield. A few days later he received his first inspiration that he was God's agent to kill Garfield. The impression continued to grow until he shot Garfield." Hoogenboom, p. 209.

<sup>123</sup> Cited in Van Riper, p. 89.

<sup>124</sup> Stahl, O. Glenn. *Public Personnel Administration*. New York, Harper and Row (1971, 6th ed.) p. 33.

However, while Garfield died in September of 1881, the Act was not passed until January of 1883. Additional impetus was provided by two other related events.

In 1881-82 considerable publicity surrounded the abuses of the spoils practice of levying "political assessments" on officeholders in order to finance campaigns.<sup>125</sup> The law of 1876 addressing this problem, which prohibited certain solicitations among employees, had never been seriously enforced, despite statements of intent to do so by Hayes. Instead, letters regularly went out to employees, requesting "voluntary contributions." In this typical fashion, General Newton Curtis, an employee of the Treasury Department who also served as Chairman of the Republican State Committee in New York, solicited and collected considerable funds from his fellow Federal workers in 1881. Regarding this as a flagrant violation of the law, the New York Reform Association filed a formal complaint. After various delays Curtis was indicted, tried, convicted, and ordered to pay \$1,000 fine.<sup>126</sup> The case was ultimately appealed to the Supreme Court, where the constitutionality of the law and then the conviction was upheld.<sup>127</sup> As summarized by Van Riper, "The court not only agreed that the law against political assessment was valid, but implied that civil service reform legislation in general was constitutional."<sup>128</sup>

Even more significant in eventually mobilizing congressional support for the passage of reform legislation was the outcome of the 1882 midterm elections. Despite the public outcry against spoils abuses following Garfield's death, many "politicians obtusely and obstinately refused to alter their behavior during most of 1881 and 1882."<sup>129</sup> In his first message, delivered to the Congress in

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<sup>125</sup> Hoogenboom, pp. 224-226.

<sup>126</sup> See Hoogenboom, pp. 226-227; and Stewart, pp. 37-39.

<sup>127</sup> Ex parte Curtis, 106 U. S. 371 (1882).

<sup>128</sup> Van Riper, p. 90.

<sup>129</sup> Hoogenboom, p. 215.

December of 1881, President Arthur expressed reservations regarding competitive examinations, but suggested the possibility of establishing a central examining board to screen applicants. But although cautious, "he pledged himself to enforce 'earnestly' any bill that Congress might pass which included the essential features of the British system."<sup>130</sup> Support for such new legislation failing, he requested, as an alternative, an appropriation of \$25,000 to reactivate the old Grant Commission.

On December 6, 1881, the same day as Arthur's address, Pendleton again introduced his civil service reform bill (the Eaton substitute), and also a bill to control political assessments. A few days later the Senate briefly considered the reform measure.<sup>131</sup> In his speech in support of his proposal, Pendleton offered a dramatic characterization of the Garfield assassination and of its origins in the spoils system. "The act of Guiteau is exceptional; the causes which contributed to it are imbedded in our system and are ever present. Instinctively the people, without distinction of party, traced the source and significance of Guiteau's act. They found it in our system of administration."<sup>132</sup> Pendleton then outlined the benefits of a merit system -- particularly the elimination of corruption and increased efficiency -- called attention to the British experience, and advocated passage of his bill, distinguished by a competitive examination system, overseen by a five-member commission empowered to issue rules and regulations. In defending his particular proposal, Pendleton stressed that it applied only to a portion of the "inferior offices" and that it in no way touched upon removals (except for protections relating to political

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<sup>130</sup> Ibid., p. 216.

<sup>131</sup> Congressional Record, 47th Cong., 1st sess.: 20, 79-85.

<sup>132</sup> Ibid., p. 80.

neutrality and assessments). Further, he defended the commission feature of his bill against the criticism of Senator Henry Dawes, a Massachusetts Republican, who favored initiation of competitive exams administered by separate agency boards rather than by a newly created central commission. Speaking in opposition, Senator Benjamin Hill, a Georgia Democrat, acknowledged the evils of the current system, but rejected the remedy offered in the bill. Instead Hill harkened back to the rotation-in-office motif, observing that current abuses proved "that the people ought not to allow any party to remain in power too long."<sup>133</sup> Indeed, throughout this session there was numerous "reform" solutions presented, some genuine, many shams to perpetuate the spoils system under the guise of reform. As Hoogenboom has observed, "Congress suggested almost as many reform plans as it had members."<sup>134</sup> Especially prevalent were proposals calling for direct election of officers outside of Washington or for fixed terms of office for all civil servants.

Although the full Senate never returned to a consideration of the Pendleton bill during this session, the Committee on Civil Service and Retrenchment held hearings and issued a Report on May 15, 1882.<sup>135</sup> This document, along with the Senate Report of the previous year, constituted the major Committee activity prior to the Act of 1883. The 1882 Report ran fifteen pages (including the text of the bill), with 225 pages of appendix (containing the statements and discussion at the hearings). The Report surveyed the current situation and offered this summary:

Without multiplying words, this much is perfectly patent:

I. That in the growth and expansion of the nation the appointing power is taxed beyond the possibility of personal attention to the requirements of official positions, increased a hundred fold in number, and manifold

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<sup>133</sup> Ibid., p. 85.

<sup>134</sup> Hoogenboom, p. 219.

<sup>135</sup> Senate Report 576, 47th Cong., 1st. sess.



in the variety and responsibility of the duties to be performed.

2. That in the discharge of this, the highest of all executive functions, political influences and compensations have come to dominate and to subordinate all other considerations; and the distribution of official spoils has come to be the lawful prerogative of political ascendancy.

3. Offices have come to be sought and bestowed as so many charities, furnishing support to the needy and exacting a return of partisan service, and not as so many trusts imposing duties on the holders. <sup>136</sup>

The Report provided a brief history which reviewed the early practices from the time of Washington and then recounted the "efforts to supplant the spoils system with the merit system," the latter section retracing the experience of the Grant Commission and of its aftermath, including the statement of support by President Arthur. The Committee registered its concurrence with Arthur and other Presidents and likewise cited the opinions of the various "experts" who had submitted statements to the Committee:

...The Committee sought information and advice from every available source. It was called upon those who are versed in the theory, as well as those who had seen in its actual workings the demoralization of the public service under the spoils system, and those who had endeavored with great measure of success to devise a remedy. The committee will not here analyze this testimony, but appends it to this report, and commends it to the most careful and attentive perusal of all who are interested in good administration. With entire unanimity these experts, theoretical as well as practical, testified that the present 'spoils system' is so entirely vicious in all its tendencies, under present conditions, that it is a cause of wonder that the administration of the civil service has been able to retain so much that is good and efficient and honest; that it has not become absolutely bad and broken down by its own weight of corruption. And with equal unanimity they testified that whenever the 'merit system' has been, however imperfectly applied, and appointments have been made because of fitness and not because of political partisan or personal influence, the service has been proportionately improved. <sup>137</sup>

The Report concluded with a discussion of the provisions of the bill, expanding on various points addressed in the 1881 Report.

The House finally succeeded in approving a \$15,000 appropriation to revive

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<sup>136</sup> Ibid., pp. iii-iv.

<sup>137</sup> Ibid., pp. vii-ix.

he 1871 Commission format (Arthur had requested \$25,000), but the measure never became law.<sup>138</sup> Ridicule pervaded this brief debate in the House; for example, one Representative quipped, "If John was one of those modern civil service reformers my sympathies are all with the whale." The membership of the House Select Committee on Civil Service Reform (uniformly hostile to their allotted task), furthered the atmosphere of condescension.<sup>139</sup>

But while the Congress stalled, the need for civil service reform was increasingly discussed in the press. And the NCSRL decided to solicit and publicize the opinions of various candidates in the upcoming congressional elections. Civil service reform became something of a campaign issue, and the Republicans were roundly defeated, some of the losing incumbents openly identified with the spoils network in some of the States. "Reformers blamed the broad Democratic victory on the failure of the Republicans to take reform seriously," and Republicans became apprehensive about their prospects in 1884.<sup>140</sup> This overriding fear spurred the lame-duck Republican controlled Congress to reconsider the Pendleton bill.

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<sup>138</sup> Congressional Record, 47th Cong., 1st sess.: 6013-16.

<sup>139</sup> Hoogenboom, p. 224.

<sup>140</sup> Ibid., pp. 231-35.

IV. Passage of the Pendleton Act

The legislative debate preceding actual passage of the Pendleton Act centered in the Senate, as had the major committee investigations and Reports. <sup>141</sup> Between December 12 and December 27, 1882, the topic was discussed almost daily, the debate filling around 200 pages in the Congressional Record. <sup>142</sup> Fish concluded:

The debate on this measure was entirely unworthy of the occasion, hardly touching any of the serious considerations involved. . . . The larger part of the time was taken up in making predictions as to the effect of the bill on the two parties, and in arguments based thereon. <sup>143</sup>

While Fish was quite accurate in noting the partisan overtones involved in the discussion of the civil service reform issue, the 1882 debate appeared to provide an adequate review of the subject. To be sure, much that was said was hardly new or original, since most of the major points had been raised in previous debates and hence were familiar.

For example, Senator Pendleton himself chose not to discuss the bill again in detail, but rather to concentrate on rebutting the repeated charges that the proposed system was aristocratic. He stressed that it was in fact democratic, because everyone would have an equal opportunity to compete for the positions. Many Senators, previously opposed to reform, now came out in favor of the bill,

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<sup>141</sup>

Senate Report 872 of Feb.16,1881, and Senate Report 576 of May 15, 1882, have been discussed above.

<sup>142</sup>

See Congressional Record, 47th Cong., 2nd sess., v. 14, pt.1

<sup>143</sup>

Fish, p.218.

although the various "alternatives" to competitive examinations, such as fixed tenure or election of all officials were also rehashed. Hoogenboom, who has stressed the political context of the debate in his analysis, commented on the situation as follows: "Although the shift in senatorial attitudes seemed truly remarkable, the speeches and the actions of many supporters of the bill betrayed a fundamental opposition to the civil service reform movement. The undertone<sup>144</sup> was one of expediency rather than of sympathy. . .

Further emphasizing the importance of the Republican reversals in the 1882 Congressional elections, Hoogenboom suggested two reasons for Republican support of the Pendleton bill: "they could pose as reformers in 1884 and win back lost support, and they could 'freeze' Republicans in office behind civil service rules<sup>145</sup> if the Democrats would win the election." Democrats were in a more ambivalent position. They might gain further support as the party pressing for civil service reform (Pendleton was a Democrat), and they clearly stood to lose from the uncontrolled levying of political assessments in the upcoming Presidential election (since the Republican Party coffers would be the primary beneficiary). On the other hand, prospects appeared favorable for a Democratic victory in 1884, and there was temptation to gamble on "capturing the bounty" of patronage for themselves.

<sup>146</sup> Several amendments were proposed and a few passed. Probably the most significant change thus made in the proposed merit system as outlined in Eaton's draft bill (then introduced by Pendleton), was the provision allowing entry at

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144  
Hoogenboom, p.238.

145  
Ibid., p.237.

146  
For a thorough discussion of the legislative history, see: A. Bower Saegesser. The First Two Decades of the Pendleton Act. Lincoln, University of Nebraska [1935] chap.ii.

all levels of the civil service rather than only at the lowest level, as was the European practice. Hoogenboom has noted that the Democrats (including Pendleton) were almost unanimously in favor of this amendment (although not in a majority to ensure its passage by themselves): the Democrats favored admission to all grades, since "this policy would shorten the time it would take for an equal distribution of offices to be reached."<sup>147</sup> But this decision to allow entry at all levels was also influenced perhaps by loftier considerations -- to nurture a more representative type of bureaucracy rather than a closed system on the European pattern. Van Riper has noted that the mobility in the American Federal service, "approaching the mobility of private employment, is unique among modern national public services."<sup>148</sup>

Another amendment, in reaction to the European practice of essay-type examinations, which were thought to favor the university educated, called for the American exams to be "practical in character" and relevant to the position under consideration.

After several days of debate, the Senate passed the Pendleton bill on December 27, 1882, by vote of 38 to 5, with 33 absent. After the results were announced, a humorous exchange followed:

So the bill was passed.

Mr. Brown. I offer an amendment to the title of the bill. I think the title ought to conform to some extent to the body of the bill. I move to strike out the words 'A bill to regulate and improve the civil service of the United States' and insert the words 'A bill to perpetuate in office the Republicans who now control the patronage of the Government.' (Laughter.)

Mr. Allison. Before that motion is made I move to strike out the

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Hoogenboom, p.241.

148

Van Riper, p.101.



preamble.

Mr. Edmunds. The preamble must be agreed to separately. It has not been agreed to yet.

The President pro tempore. The question must be put on agreeing to the preamble.

Mr. Edmunds. No preamble is necessary in a bill of this kind.

The President pro tempore. The question is on the adoption of the preamble.

The preamble was rejected.

The President pro tempore. The question now is on the title of the bill.

The Senator from Georgia ( Mr. Brown) moves to amend the title. The question is on the amendment, which will be read.

The Acting Secretary. It is proposed to amend the title so as to read 'A bill to perpetuate in office the Republicans who now hold the patronage of the Government.'

The amendment was rejected. 149

The President pro tempore. The title will stand as reported.

The voting by party in the Seante was as follows: affirmative vote (38)

included 23 Republicans, 14 Democrats, and 1 Independent; negative vote (5) all  
150  
Democrats; and absent, 14 Republicans, 18 Democrats, and 1 Independent.

The House approved the measure with virtually no debate on January 4, 1883, by  
151  
a vote of 155 to 47 with 87 not voting. The party alignment in the

House was as follows: affirmative vote (155), 102 Republicans, 49 Democrats,  
and 4 Independents; negative vote (47), 7 Republicans, 39 Democrats, and 1  
152  
Independent; not voting (87), 39 Republicans, 41 Democrats, and 7 Independents.

President Arthur signed the bill into law on January 16, 1883 (22 Stat. 403).

The major provisions of the Pendleton Act have already been outlined in the introductory discussion on the nature of a merit system, the three principles

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Congressional Record, 47th Cong., 2nd sess.: 661.

150

Van Riper, p. 98.

151

Congressional Record, 47th Cong., 2nd sess.: 867

152

Van Riper, p.98

being competitive examinations to determine fitness of applicants, political  
 153  
 neutrality, and relative security of tenure. Vacancies in the classified  
 service were to be filled from among those scoring highest on the competitive  
 154  
 examinations, for which anyone was eligible to compete. Political neutrality  
 related to the provisions prohibiting employees covered by the act "to coerce the  
 political action of any person," and to regulations concerning political assessments;  
 violations of the latter carried specified criminal penalties, thereby reinforcing  
 the 1876 legislation on the same matter. The intent behind the political neutra-  
 lity provisions was apparently to prohibit obligatory political contributions or  
 political activity on the part of Federal employees. The employee, once selected,  
 was to undergo a probationary period, after which time there would be a relative  
 security of tenure, to the extent that removals for political reasons were  
 prohibited.

The issue of tenure was touched upon during the debate in the Senate, but any  
 specific mention of the removal power had been deliberately avoided in the final legis-  
 lation. As Kaufman has noted, the law "was almost silent about removals; the  
 reformers did not get themselves entangled in the fight between the President and the  
 155  
 Senate." This course seemed prudent, for in so proceeding there was less danger  
 of alienating the President by threatening a time-honored power. Moreover, once  
 competitive exams were instituted it was thought that there would be little incentive  
 for making unwarranted removals. Senator Hoar, a Massachusetts Republican, was one of

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See discussion in chapter one, above.

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The opinion by the Attorney General in 1871, as discussed above, concluded  
 that to require the selection of the one person scoring highest would violate  
 constitutional provisions relating to the appointing power. As Van Riper notes,  
 "That the 'rule of three' ( a rule of 'four' was adopted from 1883 to 1888), followed  
 still today, was originally based upon constitutional necessity, rather than  
 upon administrative desirability or upon any occult power of the word 'three,' is  
 often forgotten." (p.104)

155

Kaufman, Herbert. The Growth of the Federal Personnel System. American  
 Assembly. The Federal Government Service. Englewood Cliffs, N.J., Prentice-Hall  
 [1965] pp.37-38,

those who referred to these matters during the debates:

The measure commends itself to me also because. . . It does not assert any disputed legislative control over the tenure of office. The great debate as to the President's power of removal, . . . which began in the first Congress, . . . does not in the least become important under the skillful and admirable provisions of this bill.

It does not even . . . deal directly with the questions of removals, but it takes away every possible temptation to improper removals.<sup>156</sup>

So in contrast to the European practice, the drafters of the Pendleton Act did not intend to institute a system of permanent tenure and sought instead to facilitate removals where necessary:

In their [sponsors of Pendleton bill] opinion there was, excessive tenure under the patronage system where it continued at the discretion of an influential person or until his faction lost power. Under the merit system tenure was subject to the discretion of the appointing officer, and was to depend upon the satisfactory performance of the appointee's public duties.<sup>157</sup>

As is discussed in subsequent chapters, over the years removal protections have become more formalized and complicated.

The Act further contained several provisions characterized by Rosenbloom as "more or less divorced from the reformers' main objectives" but which affected "equality of access to civil service positions." For example, the law provided "that no more than two members of a family could be in the competitive service at the same time; instituted an apportionment rule, based on the population of

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<sup>156</sup>

Congressional Record, 47th Cong., 2nd sess.: 274.

<sup>157</sup>

U. S. Commission on Organization of the Executive Branch of the Government. Task Force on Personnel and Civil Service. Report on Personnel and Civil Service. Washington, U. S. Govt. Print. Off. [1955] p.193. This document is hereafter referred to as Hoover II Task Force Report.

the states and territories, for appointment to positions in Washington; provided for the continuance of pre-existing veteran preference; and somewhat closer to the reformers' ideals, it provided that 'no person habitually using intoxicating<sup>158</sup> beverages to excess' should be in the competitive service."

The Act created a bipartisan Civil Service Commission, consisting of three members appointed by the President, with the advice and consent of the Senate. Like its predecessor of the 1870's, the new Commission was to devise rules and regulations, with the President's approval, to implement the provisions of the Act. Further, the Commission was to oversee the examination process and had the important power to enforce and investigate alleged violations of the rules.

In terms of coverage, the 1883 legislation was "permissive" rather than "mandatory." The law required immediate coverage under the merit system of clerical positions in the Departments in Washington and of positions at post offices and customhouses employing more than fifty persons. Some 13,780 positions, or slightly more than ten percent of the Federal service of 1883, was initially brought into the competitive service. Positions formally excluded from the system by the legislation were of two types: appointments requiring advice and consent of the Senate and laborer jobs; these categories amounted to some 20-30 percent of the<sup>159</sup> Federal service. Within these confines, the legislation in effect delegated to the President authority to extend the system via Executive Orders: "Although Congress might at any time extend the scope of the civil service, or on the other hand except positions from its provisions, the legislation in effect placed in the

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Rosenbloom, p.82.

159

Van Riper, p. 105.

hands of the President the initiative for extending the civil service to positions<sup>160</sup> other than those included by the terms of the legislation itself."

Hoogenboom has contended that the "scope of the bill was determined not by the needs of the civil service, but by the political potential of the offices themselves"; in support of this thesis he examined the defeat of carious amendments, including one that would have included in the initial coverage under the act the internal revenue officers (positions popular for spoils distribution in the States).<sup>161</sup> However, it would appear that administrative as well as political feasibility was at stake. As Van Riper has noted, "If the act permitted an orderly retreat of parties from their prerogatives of plunder, it made possible as well the gradual administrative development of the merit system."<sup>162</sup> With regard to this latter consideration, Stewart has characterized the strategy of the League as follows:

In drafting the Pendleton Law the Legislative Committee of the New York Civil Service Reform Association felt that the competitive system was such an innovation that it would be unwise to extend it to all branches of the public service at once. 'We were well aware,' says Mr. Everett P. Wheeler, a member of the Committee, 'that to inaugurate it would be a task of great difficulty, and that if too much were undertaken at once, the whole system might break down of its own weight.'<sup>163</sup>

The subsequent history of delays experienced after large extensions, because of the backlog of work to be completed by the Commission created thereby, tend to support the thesis regarding administrative necessity for gradualism. Another interpretation of the 1883 legislation has observed with regard to the future expansion

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<sup>160</sup> Hoover II Task Force Report, p.169.

<sup>161</sup> Hoogenboom, p. 244.

<sup>162</sup> Van Riper, p. 105.

<sup>163</sup> Stewart, p. 46.



of the competitive service: "The number was to be enlarged as the President, with the advice of the Commission, determined enlargement to be feasible. This placed the Commission in the role of missionary, with a large population to convert while having to rely on the help of the same population to get the job done."<sup>164</sup>

Leonard White has observed, "The great conflict over civil service reform was a domestic issue for two decades, as party politicians resisted the reformers in their demands for a radical change in the patronage system."<sup>165</sup> Ultimately, as detailed above, the Pendleton Act was passed, laying the groundwork for the future expansion of the merit system.

In terms of objectives underlying the passage of the reform legislation in 1883, certainly short term political considerations cannot be discounted. To cite another source in support of this contention, "The ensuing Pendleton Act hardly provided the framework of a modern merit system. It was essentially a gesture by, for the most part, reluctant politicians to assuage public opinion and the reform elements. . . ."<sup>166</sup> Stewart, focusing on the perspective of the Reform League, on the other hand, cited two purposes of civil service reform: "The purification of politics by eliminating the motive of private gain, and the improvement of the public service." While the original preoccupation was with the morality aspect, reformers subsequently became more interested in the efficiency

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[1970] Harvey, Donald R. The Civil Service Commission. New York, Praeger p. 8.

<sup>165</sup>

White. The Republican Era, p. 18.

<sup>166</sup>

Shafritz, p. 22.

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 issue. Another perspective has suggested that in addition to preventing corruption via patronage abuses, a major objective was :to restore to the executive branch a measure of freedom in the exercise of the appointment power as provided  
 168  
 by the Constitution." More expansive yet, a passage in Biography of an

Ideal reads:

It is important to remember that merit selection had important goals in addition to that of eliminating the spoils system, namely: obtaining the best qualified people available; giving all citizens an equal chance to compete for jobs or careers in the public service; serving the cause of good government; and raising the prestige of the public service. 169

In the following chapters we turn to the actual evolution of the civil service system after 1883. While the overall trend has been toward an expansion of the merit system, there have been significant setbacks as well.

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167  
 Stewart, pp. 84-86.

168  
 Hoover II Task Force Report, p. 169.

169  
 Biography of an Ideal, p. 46.



## CHAPTER FIVE

### EXTENSIONS OF THE MERIT SYSTEM, 1884-1932

In spite of its lack of popularity with professional politicians, the merit system experienced slow but steady expansion in the years following 1883. . . . Some administrations carried out positive programs of expanding the system; others either were lethargic or actually took actions that led away from the merit system. Opposition to the concept of the merit system was rarely voiced, however. To have done so would have been to register a public endorsement of sin. . . .<sup>1</sup>

The passage of the Pendleton Act in 1883 represented a benchmark in the evolution of the merit system in the United States. For advocates of civil service reform the legislation constituted a beginning rather than the end-point, however, for the Act provided more of a permissive framework for subsequent action than a finished product.

As was described in the preceding chapter, most of the initiative for future action in the extension of the merit system was delegated to the President. Of course under the Constitution the President from the outset had possessed considerable discretionary authority over the Federal civil service. The 1883 legislation in a sense both expanded and modified this role. As Leonard White has observed, "After 1883 Presidents had a new and general responsibility for personnel administration, viz., approval of the rules of the Civil Service Commission and extension of the merit system. The executive orders from 1883 to 1901 were, in

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<sup>1</sup> Harvey, Donald R. *The Civil Service Commission*. New York, Praeger [1970] p. 9.

fact, almost wholly devoted to these matters. . . ."<sup>2</sup> The Executive Orders relating to extensions of the civil service coverage under the merit system continued after 1901 as well, and these developments comprise the major portion of the material discussed in part II below.

Many members of the Congress were not enthused about the institution of the merit system and were even less happy about the prospect of its gradual extension at the expense of patronage. As White quipped, "So far as the attitude of rank-and-file politicians was concerned, the passage of the Pendleton Act involved no conversion to grace."<sup>3</sup> After 1883 Congress therefore in no sense relinquished all of its prerogatives over civil service matters; both those hostile to reform as well as those who wanted further extensions returned to the issue from time to time. As discussed below in part III, there were various investigations initiated by the Congress relating to the implementation of the merit system, and specific legislative proposals were advanced, some of which became law.

The reformers outside of Government did not consider their task completed either. In his history of the National Civil Service Reform League, Stewart has noted that getting the merit system extensions on the books was not enough; continued vigilance was needed: "An important phase of the League's work has always been that of a defender of the competitive system from all attacks, exemptions,

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<sup>2</sup>White, Leonard. *The Republican Era, 1869-1900*. New York, Macmillan Company [1958] p. 97.

<sup>3</sup>*Ibid.*, p. 304.



evasions, and maladministrations, whether by the executive order or by the legislative department of the government."<sup>4</sup>

Before turning to the respective actions of the President, the Congress, and the public in the process of shaping and extending the merit system after 1883, it is necessary to consider some background material relating to the early operations of the Civil Service Commission, the general nature of administration during this era, and the matter of definitions.

### I. Background

During this period total Federal civilian employment experienced an increase of over 400 percent, from 131,208 in 1884 to 588,206 in 1931; temporary expansion during the First World War swelled the ranks to almost 650,000.<sup>5</sup> Moreover, the growth in Federal personnel reflected qualitative as well as quantitative alterations. Beginning in the latter nineteenth century, scientific and technical concerns began to occupy a growing number of Federal employees, although in absolute terms still constituting a minute portion of the total. By 1896 professional and scientific workers accounted for about two percent of the total, "primarily representing medicine,

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<sup>4</sup>Stewart, Frank Mann. *The National Civil Service Reform League*. Austin, Texas, University of Texas Press [1929] p. 153.

<sup>5</sup>For figures on total Federal employment and coverage of the merit system since 1883, see: James McGrath, *Statistical Survey on the Extension of the Competitive Civil Service Merit System, 1884-1975*, Library of Congress, Congressional Research Service [1976].

engineering, and the mechanical arts, and the physical and biological sciences." Not surprisingly, those bureaus most involved with scientific and technical matters were particularly supportive of merit system extensions in order to recruit competent personnel. For example, the Secretary of Agriculture was sufficiently committed to the merit system that by 1897 he had classified the department via internal directives as far as the current laws would permit. In short, "The trend was clear, with a reciprocal affinity between the merit system and scientific and technical work fairly well established by 1900."<sup>6</sup> Likewise, the observation has been made that the adoption of the merit system was prerequisite to the maintenance of the modern industrial state; one writer has suggested that passage of the Pendleton Act thus "laid the foundation for the development of that technical expertise crucial to the operation of the modern state."<sup>7</sup>

Despite the apolitical pressures accentuating the need for skilled personnel, of course the spoils system did not disappear overnight. In the latter nineteenth century the unclassified service remained an important component of the whole, and here "political influence was yet the sesame to public office, except for a growing number of scientific and technical positions where the need for expertise was recognized;" elsewhere, "most of the subterfuges that we still today associate with the spoils system were in full sway."<sup>8</sup> Although attention in the ensuing

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<sup>6</sup> Van Riper, Paul P. *History of the United States Civil Service*. Evanston, Illinois, Row, Peterson, and Company [1958] p. 161.

<sup>7</sup> *Ibid.*, pp. 111-112.

<sup>8</sup> *Ibid.*, p. 150.

discussion is concentrated on the evolution of the merit system, it should be realized that throughout this period, particularly in the years immediately after 1883, patronage remained a significant avenue of recruitment for the civil service, concurrent with the expansion of the merit sphere.

The primary goal of the Commission following 1883 was the elimination of the abuses of the spoils system via the gradual substitution of merit principles in the appointment process. Its envisioned role fell far short of our contemporary notions of "positive personnel management." "Certainly any idea of amelioration of working conditions or of careful utilization of manpower were strictly incidental to what the reformers, and most other Americans, considered to be the fundamental purpose of the new organization -- namely, policing the patronage."<sup>9</sup> In seeking so to neutralize the spoils the Commission built upon the practices pioneered by the 1871-75 Grant Commission. The new Commission advised the President and sought with his approval to lay down general regulations termed "Rules" for the operation of the merit system. In addition to formulating and overseeing the Rules, the Commission's major responsibilities included the administration of the examination system for entrance to the classified service and investigation of violations of the Pendleton Act. As described by Van Riper:

While the primary administrative emphasis of the Commission was upon its examining function, it was hardly less concerned about subversion of the merit system through (1) fraud or collusion in examinations, (2) illegal appointments, (3) political coercion and removals, and (4) political assessments. The Commission's authority in some of these matters -- assessments, for example -- extended into the unclassified as well as the classified service. . .

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<sup>9</sup> Ibid., p. 137.

While the Commission was faced with innumerable difficulties in fulfilling completely its investigative functions, there is good evidence that its work produced results. Frauds in examinations were negligible by 1900, illegal appointments were declining, and assessments and political removals were being curbed. . . .

In its early years the operations of the Civil Service Commission were facilitated by the generally high caliber of its members. Particularly noteworthy were Dorman Eaton, who was appointed as Chairman by President Arthur after having served in a similar capacity in the Grant Commission, and Theodore Roosevelt, who as President had a unique understanding of Federal personnel matters because of his previous service as Commission Chairman.

Although there was some progress in implementing the Pendleton Act, the impact of the Commission's activities upon actual personnel administration was initially modest. The Department heads, preoccupied with the day-to-day problems of Department affairs and not infrequently by political considerations as well, tended to be less concerned with merit principles than was the Commission:

In the departments the merit system ran headlong into the traditional intermixture of politics and administration which had characterized American public management since 1829. While the Civil Service Commission, as a relatively new and independent agency, was free to concentrate on personnel administration via the merit system, the other agencies of the executive branch were not. In them personnel management inevitably found itself intermingled with and affected by partisan politics, substantive program requirements, and administration in general. Viewed from the more isolated vantage point of the Civil Service Commission, progress in personnel management elsewhere must have seemed halting and uneven.<sup>11</sup>

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<sup>10</sup> Ibid., p. 142.

<sup>11</sup> Ibid., p. 148.

It was not until 1925 that the Department of Agriculture initiated what might be termed the first formal "personnel system," followed by similar structures at Treasury and Interior. Prior to this time, personnel at the level of department operations was not "much more than a special sort of record keeping," usually under the supervision of the chief clerk.<sup>12</sup>

Although any detailed consideration of the evolution of the Civil Service Commission as an institutional entity is beyond the scope of this study, it is of interest to a history of the merit system to note that by 1932 Federal personnel functions were becoming increasingly centralized under the aegis of the Commission. For example, the Classification Act of 1923 had created a special Personnel Classification Board, but this unit was abolished and its major functions of position classification and supervision of efficiency ratings were transferred to the Civil Service Commission in 1932. The following year another rival of the Commission, the Bureau of Efficiency, was abolished. The Bureau of Efficiency had originated in 1912 as a division within the Commission, but shortly thereafter was given status as an investigative arm of the Congress, independent of the Commission and somewhat akin to the General Accounting Office.<sup>13</sup>

It should also be noted that along with the new responsibilities resulting from this centralization, the original duties of the Commission as enforcer of the Pendleton Act likewise expanded. White has explained this development as follows:

. . . The Civil Service Commission gradually acquired additional 'policing' authority by the revision of its rules and by agreements with the departments such as those for promotions. It was, indeed, by extension of the rules of the Commission, as authorized by the President, that

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<sup>12</sup>Ibid., pp. 149, 311.

<sup>13</sup>Ibid., pp. 222, 311.



the authority of the Commission expanded and its supervisory role was gradually emphasized. In the early years this trend was motivated by suspicion of political influence and favoritism, and by distrust of the departments; later it was concerned with the establishment of uniform government-wide standards.<sup>14</sup>

But while the Commission came to assume a variety of new functions, for the bulk of the period from 1883 to 1932 its paramount administrative focus was upon the recruitment and examination of prospective employees. And the magnitude of this burden was "largely a function of the extension of the classified service."<sup>15</sup>

The expansion of the classified service in the early years was often accomplished via a process known as "blanketing in." According to the Commission's history, Biography of an Ideal:

'Blanketing in' is the popular term for placing Federal positions under the civil service rules. It is the principal method of adding positions to the competitive service. Although the practice represents a deviation from the merit principle, it makes future appointments to the 'blanketed-in' positions subject to merit rules. Through the years since 1883 it has been done by both the executive and legislative branches, and by both Republican and Democratic administrations.<sup>16</sup>

Such blanketing-in involved a relatively simple procedure whereby the President would issue an Executive Order (or infrequently, Congress would pass a bill), announcing that as of a given date persons occupying the positions stipulated were to be added to the competitive service. Such extensions of coverage thus simultaneously brought a position and its occupant under the provisions of the Pendleton Act.

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<sup>14</sup> White. The Republican Era, pp. 363-364.

<sup>15</sup> Van Riper, p. 143.

<sup>16</sup> U.S. Civil Service Commission. Biography of an Ideal. Washington, U. S. Govt. Print. Off. [1973] p. 49.

It appears that the concurrent classification of position and incumbent was not the original intent, however. At the outset of the new system in 1883 special civil service rule I stated that the incumbent of a position added to the competitive service would be given merit status, provided: "Such person has either already passed an examination under civil service rules or shall pass an appropriate competitive or noncompetitive examination. . . ." But President Cleveland revoked this rule by Executive Order of February 2, 1888; this directive eliminated the examination requirement and accorded to the incumbents so covered-in the same rights as those possessed by persons in comparable positions subsequently appointed following completion of a competitive exam.<sup>17</sup> As further discussed below, beginning in the 1920's the incumbent of a position blanketed-in would often be required to take at least a noncompetitive test akin to the old 1853 pass exam concept in order to acquire civil service status and hence retain the job; this procedure became mandatory in 1936.

Blanketing-in frequently occurred near the end of an Administration and was especially popular with lame duck Presidents. The political implications of such practice were obvious. As Harvey has noted, "such actions frequently led to controversy over whether their real motive was to improve government by extending the merit principle to more jobs or to give job security to the party faithful and remove

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<sup>17</sup> U.S. Commission on Organization of the Executive Branch of the Government. Task Force on Personnel and Civil Service. Report on Personnel and Civil Service. Washington, U.S. Govt. Print. Off. 1955 pp. 184-185. This document is hereafter cited as Hoover II Task Force Report.

a plum from the reach of the opposition party about to assume office."<sup>18</sup> Somewhat more pointedly, with respect to the latter nineteenth century in particular, Hoogenboom has observed:

The merit system advanced not because of further action by Congress, which remained hostile to reform, but because of executive action. Ironically, executive action stemmed more from a desire to place fellow members permanently in the civil service than from a wish to reform. The process involved replacing all political enemies with political friends in a branch of the unclassified, or unreformed, service and then extending the rules to cover it. This process was hastened by the alternation of party control in the 1880's and 1890's, which led Presidents every four years to make additions to the classified list. The irony was compounded. The advance of the merit system stimulated rapacious spoils methods in the unclassified service. . . .<sup>19</sup>

However, the ramifications of this process were apparently understood and accepted by both the reformers and the politicians: "That these post-election classifications were not exactly based on a zeal for merit was fully understood by the reformers and by the politicians. The latter had always welcomed these actions as fortunate opportunities for the politically distressed. They were now reluctantly condoned by the reformers as a necessary evil in accomplishing the extension of the merit system."<sup>20</sup> In his history of the League Stewart likewise reported the League's position: "Many extensions of the merit rules have been made by defeated administrations just before leaving office. The League has never opposed the 'covering-in' of employees of

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<sup>18</sup> Harvey, p. 9.

<sup>19</sup> Hoogenboom, pp. 260-61.

<sup>20</sup> Van Riper, p. 126.

such offices, but it has frequently been called upon at the beginning of a new administration to resist the pressure of spoilsmen to exempt such places from the classified service."<sup>21</sup> Thus probably a major factor influencing the League's acquiescence was that once positions were blanketed-in, they were rarely "uncovered."

In any event, after 1883 protagonists on both sides of the civil service reform issue perceived benefits accruing to them via the technique of blanketing-in. As a consequence of this curious agreement on means, despite the divergent concepts of the ends sought, the expansion of the competitive service was undoubtedly more rapid and extensive than would otherwise have been possible. By the end of the period surveyed in this chapter, during the Hoover Administration, merit system coverage reached a peak of approximately 80 percent of the entire Federal civil service.

But before turning to the actions which resulted in this expansion of the competitive service, it is necessary to digress briefly to consider the matter of definitions. A variety of terms recur in discussions concerning the historical development of the United States civil service. While some of the terms are used interchangeably today, it is important to discern certain differences in meaning and points of confusion.

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<sup>21</sup> Stewart, p. 256.

For ten years or so following the enactment of the Pendleton Act terms such as "classified service," "competitive service," "permanent service," and "positions under the merit system," were, according to Van Riper, "not exactly synonymous" but reasonably interchangeable."<sup>22</sup> Although significant differences in technical meaning developed subsequently, the terms continued to be used rather indiscriminately, which led to ambiguities. This lack of clarity regarding technical distinctions in data relating to the historical evolution of the merit system has "always made it difficult to portray the extent of the Civil Service Commission's jurisdiction and to delineate precisely the boundaries between the spoils system and the merit system. All statistics with respect to either are of necessity approximate."<sup>23</sup>

The term "classified service" became particularly ambiguous after the passage of the so-called Classification Act of 1923, which established categorization of positions according to job duties. This more specific meaning of "classification" tended to blur the prior concept of "classification" as bringing positions under the provisions of the Pendleton Act. Moreover, with the expansion of the competitive service in the twentieth century, "The term 'civil service' was rapidly becoming so nearly synonymous with the 'merit system' in the public mind as to give rise to a semantic confusion which has plagued us forever afterwards."<sup>24</sup>

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<sup>22</sup> Van Riper, p. 99.

<sup>23</sup> Ibid., p. 207.

<sup>24</sup> Ibid., p. 228.



But probably the major source of confusion among terms relates to the emergence of the so-called "excepted service," as contrasted with the "competitive service." As the merit system was gradually extended following 1883, broad groupings of somewhat diverse positions might be classified via a single action (often an Executive Order). In some cases it was found necessary to except certain positions from the competitive examination requirement of the merit system. The rationale behind these exemptions from fully competitive procedures stemmed from a variety of considerations such as inappropriateness of examinations for some kinds of work as well as political pressures. The authority for the Civil Service Commission to exercise a degree of administrative discretion in excepting certain positions from the competitive examination process dates back to Rule XIX of 1883, which has been explained as follows: "Although the need for certain exceptions to any extension of the merit system was recognized, 'excepted' was interpreted only as waiving the examining requirement necessary for appointment to the position. The position itself remained within the service."<sup>25</sup> The Civil Service Commission has continued to make administrative exceptions in accordance with criteria established by Executive Order. So before long there emerged three informal categories within the classified service: (1) the competitive service; (2) the noncompetitive service (for which there were no competitive exams, but

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<sup>25</sup> Hoover II Task Force Report, p. 170.

perhaps minimal standards to be met and the like); and (3) the excepted service (no prerequisite exams or formal requirements for entrance). Historically, positions in the latter two categories have been considered in the classified service, although exempt from competitive exams, because they were subject to other merit principles and as such were to be distinguished from those "unclassified" positions in no way yet covered by the Pendleton Act provisions.<sup>26</sup> An important revision of the Civil Service Rules by Theodore Roosevelt in 1903 (discussed in greater detail below) had ramifications for both conceptualizing and labeling: "Until that time the competitive service was identified by specifically enumerating the parts of the executive branch to which it applied. This was reversed under the 1903 revision by defining the competitive service as all positions in the executive branch except those specifically exempted by Congress or the President."<sup>27</sup>

Until 1910 all the positions in the classified service exempted from competitive exams were lumped together and listed in a Schedule A, published in the Annual Report of the Civil Service Commission. After that time noncompetitive slots (as distinct from positions in the excepted category), were transferred to a new Schedule B. Further differentiations occurred with the creation of a Schedule C in 1953 to include positions which entailed policy determination or which involved a close personal relationship with a high-level political appointee, and of a new

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<sup>26</sup> Van Riper, p. 207.

<sup>27</sup> Hoover II Task Force Report, p. 172.

category called Non-Career Executive Assignments in 1966, to provide a separate category for Schedule C positions in grades 16, 17, and 18.<sup>28</sup> In addition to the positions in the civil service system exempted from the competitive examination requirement as a result of administrative action, and currently contained in these four schedules, there are also groups of positions excepted specifically by statute. In 1973 the Civil Service Commission prepared a report on "Statutory Exceptions to the Competitive Service" at the request of the Senate Committee on Post Office and Civil Service. This report, which runs over 800 pages, is the most comprehensive compilation of information on these statutory exceptions currently available.<sup>29</sup>

The Excepted service, then, in the broadest sense includes all those positions exempted, either by statute or by administrative action, from the competitive examination requirement originating with the 1883 legislation. But the situation is even more complex. Certain agencies whose work force is excepted by statute from the jurisdiction of the Civil Service Commission and its regulations have themselves established career merit systems which operate on principles quite similar to those utilized by the Civil Service Commission in its recruitment;

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<sup>28</sup> For a discussion of the various schedules, see: Bernard Rosen. The Merit System in the United States Civil Service. Monograph prepared for the Committee on Post Office and Civil Service, House, 94th Cong., 1st sess. (Committee Print No. 94-10). Washington, U.S. Govt. Print. Off. [1975] pp. 18-25.

<sup>29</sup> U.S. Civil Service Commission. Statutory Exceptions to the Competitive Service. Report prepared for the Committee on Post Office and Civil Service, Senate, 93rd Cong., 1st sess. Washington, U.S. Govt. Print. Off. [1973].

examples of such agencies include the Foreign Service, the Tennessee Valley Authority, and most recently, the U.S. Postal Service. Thus there is ambiguity even when referring to the "positions under the merit system," since if one thinks of these independent systems there are in effect several merit systems.

In the following discussion this report borrows from the terminology employed in the 1973 Commission-prepared Report for the Senate. The 1973 study began with the definitions provided in title 5 of the U. S. Code and then added an important "qualifier." The relevant provisions of title 5, as paraphrased in the Report, read as follows:

#### Definitions

Below are definitions of terms used in this report:

Competitive service. As stated in section 2102 of title 5, U.S. Code:

(a) The 'competitive service' consists of--

(1) all civil service positions in the executive branch, except--

(A) positions which are specifically excepted from the competitive service by or under statute; and

(B) positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs;

(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute; and

(3) positions in the government of the District of Columbia which are specifically included in the competitive service by statute.

(b) Notwithstanding subsection (a)(1)(B) of this section, the 'competitive service' includes positions to which appointments are made by nomination for confirmation by the Senate when specifically included therein by statute.

(c) As used in other Acts of Congress, 'classified civil service' or 'classified service' means the 'competitive service.' (P.L. 89-554, Sept. 6, 1966, 80 Stat. 408.)

Excepted service. As stated in section 2103 of title 5, U.S. Code:

(a) For the purpose of this title, the 'excepted service' consists of those civil service positions which are not in the competitive service.

(b) As used in other Acts of Congress, 'unclassified civil service' or 'unclassified service' means the 'excepted service.' (P.L. 89-554, Sept. 6, 1966, 80 Stat. 408.)<sup>30</sup>

So despite the ambiguity perpetuated by equating "classified service" and "competitive service," this procedure is sanctioned by current statute. Moreover, the statutory definition of "excepted service" is not necessarily coterminous with the set of all positions exempted from competitive examinations. According to the U. S. Code, these positions excepted by statute are clearly to be considered in the excepted service, but the precise legal status of Schedules A, B, C and Non-Career Executive Assignment positions is rather ambivalent. It would seem as if these positions by default might have to be placed within the legal category of "competitive service." With regard to this situation the Civil Service Commission Report for the Senate Committee provided this explanatory statement:

In this report whenever mention is made of "bring positions into the competitive service," the phrase should be understood as meaning making the positions subject to the civil service appointment laws and regulations including section 3302(2) of title 5, United States Code, which permits "necessary exceptions" of positions from the competitive service. We do not mean that all of a group of positions brought into the competitive service should necessarily be handled competitively since we cannot rule out appropriate administrative

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<sup>30</sup> Ibid., pp. 10-11.



exceptions under Schedule A, B, or C or under Noncareer Executive Assignment. We realize that our use of the phrase, "bring into the competitive service," is not technically correct. Nevertheless, we have used this phrase because we decided it would be clearer than other language so long as the reader understands that we are using "competitive service" to include the possibility that some of the positions covered by a statutory exception may appropriately belong in the administratively excepted service.<sup>31</sup>

Current usage, as spelled out in these quotations, is followed in the subsequent discussion. The terms "competitive service" and "positions under the merit system" in general refer to all positions under some jurisdiction of the Civil Service Commission (including those positions on the original Schedule A and its successors which are in fact exempt from competitive examinations), but excluding positions excepted by statute (even if they are covered by an independent merit system).

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<sup>31</sup>Ibid., p. 12.

## II. Actions by the President

The divergence between reform rhetoric and tangible results continued after 1883: "The official pronouncements of each successive President were all that the reformers could desire, but performance lagged behind promise." Still, as White further acknowledged, "Presidents, for their part, were in a difficult position. The civil service reformers drove them hard, and watched for every evidence of backsliding, while urging extension of the system to new offices and agencies." <sup>32</sup>

With the election of Grover Cleveland in 1884, the Democrats regained the Presidency for the first time since the Civil War. The Republicans anticipated that the Democrats would thus have little mercy for Republican office holders in the unclassified service. Against this background President Arthur commenced the practice of making post-elections additions to the classified service. Between November of 1884 (when the election results were known), and March 3, 1885, he extended the classified service by approximately 1500 positions.<sup>33</sup> During 1884 the classified service also expanded, as four more post offices attained the requisite fifty employees and hence were converted to competitive positions.

The election of Grover Cleveland pleased the reformers. As governor of New York, Cleveland had nurtured and then signed the first State civil service law on May 18, 1883.<sup>34</sup> During the presidential campaign Cleveland had also pledged extensions of the Federal merit system. But patronage pressures exerted on Cleveland following his inauguration in 1885 were intense. As

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<sup>32</sup> White. *The Republican Era*, p. 307.

<sup>33</sup> U. S. Civil Service Commission. *Sixteenth Report*, July 1, 1898 to June 30, 1899. Washington, U. S. Govt. Print. Off. [1900] p. 132.

<sup>34</sup> For a description of this legislation, see Stewart, pp. 34-36.

characterized by Fish:

The position of the new president was undoubtedly a difficult one. For twenty-four years the opposing party had been in power; and even the reformers acknowledged that it would be proper to bring about some approximation of equality between the parties, and were willing to agree with Cleveland that some men in office had 'forfeited all just claim to retention.'<sup>35</sup>

Cleveland was personally opposed to the spoils system and deeply resented the constant importuning of hopeful job-seekers, but he was also dependent on the party regulars for support. As a partial resolution of this dilemma, Cleveland attempted to borrow the old Jeffersonian notion of redressing the balance by "making gradual, rather than sweeping replacements" in the unclassified service where political appointments were of course still customary. Not surprisingly, "This action did not greatly please either the reformers or the party regulars."<sup>36</sup> Cleveland yielded to the pressures in his first term to the extent of making substantial removals in the unclassified service; "within 16 months he removed 68 percent of the excepted Interior Department employees, and 31,000 out of the 55,000 postmasters."<sup>37</sup>

On the other hand, Cleveland conscientiously observed the civil service rules; during the first sixteen months when large-scale removals were occurring in the unclassified service the removal rate in the competitive service was but 6½ percent.<sup>38</sup> Cleveland issued an Executive Order of July 14, 1886, to his Department heads, outlining policy guidelines with respect to political

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<sup>35</sup> Fish, Carl Russell. *The Civil Service and the Patronage*. New York, Russell and Russell [1963; originally published 1904] p. 222.

<sup>36</sup> U. S. Civil Service Commission. *History of the Federal Civil Service, 1789-1939*. Typed report [1939] p. 77.

<sup>37</sup> *Biography of an Ideal*, p. 49.

<sup>38</sup> *Ibid.*

activities by Federal employees. This memorandum stated in part:

. . . Officeholders are neither disfranchised nor forbidden the exercise of political privileges, but their privileges are not enlarged nor is their duty to party increased to pernicious activity by officeholding.

A just discrimination in this regard between the things a citizen may properly do and the purposes for which a public office should not be used is easy in the light of correct appreciation of the relation between the people and those intrusted with official place and consideration of the necessity under our form of government of political action free from official coercion.<sup>39</sup>

Cleveland's record further accorded with the typical pattern stated by one writer as follows: "American presidents during the reform period typically entered office taking full advantage of their patronage prerogatives and left office with extensions of the merit system to their credit."<sup>40</sup> For a start, Cleveland brought the eight employees of the Civil Service Commission itself into the competitive service by Order of March 1, 1888. Further, a revision of Department classifications for the offices in Washington on June 29, 1888, extended the competitive service so as to include "all the officers, clerks, and other employees in the Departments except those appointed by the President by and with the advice and consent of the Senate, and those employed merely as messengers, watchmen, workmen, or laborers. Altogether 1,391 places were added to the classified service by this extension."<sup>41</sup> During Cleveland's term from 1885-1889, the accession of more post offices to the fifty-plus employee category, along with the "miscellaneous growth," added about 4,500 positions.<sup>42</sup>

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<sup>39</sup> Richardson, James D. (ed.). *Messages and Papers of the President*. New York, Bureau of National Literature [1897] v. XI, p. 5079.

<sup>40</sup> Shafritz, Jay M. *Public Personnel Management: The Heritage of Civil Service Reform*. New York, Praeger [1975] p. 24.

<sup>41</sup> Sixteenth Annual Report of the Civil Service Commission, p. 132.

<sup>42</sup> *Ibid.*, p. 134.

But by far the largest overt extension came after Cleveland's defeat for re-election in 1888. On December 31, 1888, he issued an Order covering the 5,320 employees of the Railway Mail Service, a unit which had been plagued with patronage scandals, into the competitive service. During the lameduck period the party leaders urged Cleveland to "save more Democrats" by blanketing-in additional positions to the competitive service, but he refused. Like Arthur before him, Cleveland apparently feared that too extensive a post-election expansion might jeopardize the entire merit system, and hence opted for prudence.<sup>43</sup>

When Benjamin Harrison acceded to the Presidency on March 4, 1889, the Civil Service Commission had not yet completed the December extension as authorized by Cleveland. Partly at the Commission's request (they requested additional time to finish processing the paperwork), Harrison delayed the effective date of the Order to May 1, 1889. In these circumstances,

. . . One of the greatest political weaknesses of the new system at once became apparent. The fact that, when the civil service rules are extended to a new class of officers, the incumbents are included within their protection without having to undergo the trial of an examination, has made it easier for presidents -- has perhaps even tempted those who were retiring -- to extend the classification and protect their party friends. Then however, the opposite party comes to power and finds its opponents securely lodged in offices which but just now were patronage and from which its own members may have been but recently expelled, a severe strain is put upon the belief in the morality of civil service reform; it seems like saying that to the vanquished belong the spoils.<sup>44</sup>

The outcome of the situation with the Railway Mail Service in 1889 was described in a footnote of an Annual Report; of the 5,320 employees classified by the Cleveland order, "2,300 were removed between March 4, 1889, and May 1, 1889,

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<sup>43</sup> Van Riper, p. 122.

<sup>44</sup> Fish, p. 223.



under the Administration of President Harrison and their places filled without examination, presumably by Republicans." <sup>45</sup> Theodore Roosevelt was less guarded in later commenting on the episode: "This was an outrageous act, deserving the severe condemnation it received; but it was perfectly legal." <sup>46</sup>

Harrison made two relatively small extensions prior to the 1892 elections. On April 13, 1891, he issued an Order blanketing-in certain positions in the Indian service, which had been the subject of notorious patronage manipulations:

The mismanagement of Indian affairs for many decades had been a disgrace to the Republic. The appointment of Indian agents and indeed of the whole service was controlled politically; it was important primarily in the western states where ideas of civil service reform were slow in taking root. Harrison made a beginning in the improvement of the Indian service by extending the merit system to cover 626 field employees: physicians, school superintendents, school teachers, and matrons. <sup>47</sup>

On May 5, 1892, Harrison issued an Order covering-in the fish service, with 140 employees. During his term some 2,000 employees were brought into the competitive service as a result of natural growth (post offices with over fifty employees joining the list and the like), and although not formally classified, about 5,000 employees in the navy-yard service were placed under a merit system by Secretary Tracy, with the consent of Harrison. <sup>48</sup>

Following the by now familiar precedent Harrison made his largest extension of the competitive service after his defeat. On January 5, 1893, he brought into the competitive service all free-delivery post offices; this involved

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<sup>45</sup> Sixteenth Annual Report of the Civil Service Commission, p. 134.

<sup>46</sup> Cited by White. *The Republican Era*, p. 318.

<sup>47</sup> White. *The Republican Era*, p. 318.

<sup>48</sup> Sixteenth Annual Report of the Civil Service Commission, p. 134.

548 offices, with 7,610 employees. This extension was accomplished by amending the Postal Rules. On the same day Harrison also blanketed-in 314 employees of the Weather Bureau working outside of Washington, via an amendment to the Department of Agriculture classification.<sup>49</sup>

Grover Cleveland was again elected President in 1893. Although Cleveland pledged himself to support Harrison's classification of the free-delivery post offices and refused to postpone the effective date, some members of his Administration were less scrupulous and sought retaliation for Harrison's actions in a similar situation with the Railway Mail Service classification four years earlier. An Annual Report of the Commission noted with regard to the free-delivery post offices subsequent to Cleveland's taking office in 1894: "Several hundred of the clerks and carriers at these post-offices were removed under the succeeding [Cleveland] Administration, but nevertheless the Commission enforced the classification of all the means in its power, and succeeded in securing the reinstatement of some of the removed employees."<sup>50</sup>

During his second term Cleveland made the first large-scale pre-election extensions (as described shortly), but he also displayed an understanding of the manipulative potential of patronage for furthering policy objectives. In order to insure the repeal of the Sherman Silver Purchase Act, which Cleveland accorded high priority, the President allowed an influential Senator virtually to control the entire distribution of Federal patronage in his State. As Van Riper has noted regarding this episode:

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<sup>49</sup> Ibid., p. 132.

<sup>50</sup> U. S. Civil Service Commission. Seventeenth Report, July 1, 1899, to June 30, 1900. Washington, U. S. Govt. Print. Off. [1901] p. 199.

The roll of presidents deliberately manipulating public office for the furtherance of their political programs now included Cleveland without question. Careful control of the patronage has often been the only means available to a chief executive who wishes -- for high as well as low purposes -- to bridge the constitutional gaps between President, party, and Congress. Cleveland, by 1893 as experienced in party affairs as any American alive, well understood this fundamental principle of American politics.<sup>51</sup>

During Cleveland's second term several steps for the advancement of the merit system were attained, besides the extension of the classified service. As discussed previously, removals aside from the prohibition on dismissals for political reasons, were virtually unregulated in the Pendleton Act. However, in 1894 Cleveland's Postmaster General instituted the first provisions for procedural regulation of removals; this Order "put an end to the practice of removal upon secret charges of carriers in free delivery offices" by providing that such employees were to be "informed of charges made against them and be afforded an opportunity for written explanation or defense before removal."<sup>52</sup> The Comptroller of the Treasury likewise "reflected the favorable attitude of the Cleveland Administration toward the Civil Service Commission. . . ." A decision of 1894 sanctioned the withholding of salary checks from temporary employees who had been appointed without the Commission's consent, and a related decision the following year provided that appointing officials could not continue temporary appointments beyond the period approved by the Commission. As one commentary has noted, "The support of the holder of the purse strings was a great aid to the merit system, especially in its early days."<sup>53</sup> Further, a modest effort was made to place the foreign service on a merit basis. In response to complaints from businessmen regarding

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<sup>51</sup> Van Riper, p. 129.

<sup>52</sup> Stewart, pp. 58-59.

<sup>53</sup> History of the Federal Civil Service, 1789-1939, p. 83.

the low quality of services provided by American representatives abroad, under Cleveland a system of examinations for certain consular positions was reinstituted, but only preselected persons (often so chosen for political reasons) were allowed to take the exam. <sup>54</sup>

Natural growth in the service added over 1,500 positions during Cleveland's second term. In addition, Cleveland issued a series of Executive Orders extending the scope of the merit service, beginning early in the term. Prior to the major revision of the rules in May of 1896, some 10,396 positions were covered-in, including large contingents from the Government Printing Office, the Internal Revenue Service, and the Customs Service. The following list summarizes the extensions made by the respective orders: <sup>55</sup>

Indian Service at large, May 11, 1894	(89)
Department of the Interior, July 25, 1894	(2)
Messengers and watchmen in all departments, Nov. 2, 1894	(868)
Custom-house service, Nov. 2, 1894	(1,527)
Post Office Department, Nov. 2 and Dec. 3, 1894	(43)
Internal Revenue Service, Dec. 12, 1894	(2,939)
Bureau of Animal Industry and Weather Bureau, May 24, 1895 (Department of Agriculture)	(787)
Government Printing Office, June 13, 1895	(2,709)
Firemen in all departments, June 15, 1895	(94)
Pension agencies, July 15, 1895	(505)
Indian agency and school employees, March 20, 1896	(743)

Even more impressive, however, was the revision of the civil service rules on May 6, 1896, which brought in some 31,586 positions. <sup>56</sup> This was the largest extension up to that time and proportionally (almost 33% increase) perhaps the largest ever. One account has described the impact of the revision of the rules as follows:

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<sup>54</sup> Ibid., p. 84

<sup>55</sup> Sixteenth Annual Report, pp. 134, 135.

<sup>56</sup> Ibid., p. 132. The Seventeenth Annual Report provided a "corrected" figure of 26,543 (p. 197), but the generally accepted total for this extension is usually over 30,000.

The new rules gave a much needed unity to the regulations governing the competitive classified service, for different sets of regulations had been growing up for each classified agency. The 1896 rules also much increased the size of the classified service by numerous additions to the list of departments, agencies, and types of positions to which appointment by competitive examination was required.<sup>57</sup>

Moreover, according to another source, these extensions of May, 1896, are significant for the qualitative as well as the quantitative alterations in the scope of the competitive service:

Not only was a large number of positions included but the order extended the classified service up to and including the position of division chief. This category of jobs had been specifically excluded under the first exceptions made in 1883. Cleveland's action in effect extended the classified service to a position in the organizational structure just below that of Presidential appointees. Many of these chiefs of divisions were analogous to what we consider as bureau chiefs today.<sup>58</sup>

All in all, then, during his second term "Cleveland compensated in large part by his contributions to reform for the failures of his first term."<sup>59</sup> However, as Fish has noted, perhaps reformers should have been more sensitive to the possibility that such massive extensions might invite requitals:

Each of these extensions was hailed by most of the reformers with an enthusiasm tempered solely by a desire for more; but they might well have been disturbed by the fear that the Republicans, finding so many Democrats protected by the civil service fence, would attack the system itself. President Cleveland must, indeed, be accused of a greivous lack of tact, if not of a distinct discourtesy, when, as late as January 12, 1897, he placed under the rules employees of the President's office.<sup>60</sup>

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<sup>57</sup> History of the Federal Civil Service, 1789-1939, p. 85.

<sup>58</sup> Hoover II Task Force Report, p. 171. For a listing of the extensions by Department brought about by the revision of the rules, see Sixteenth Annual Report, pp. 135, 136.

<sup>59</sup> Stewart, p. 58.

<sup>60</sup> Fish, p. 225.



The usual pressures on a new President taking over after a period when the opposing party controlled the office were intensified for William McKinley, elected in 1896, because of the very sizeable extensions made by Cleveland. Although McKinley had maintained an excellent record on civil service matters while in Congress, the merit system made but few gains during his Administration. As Fish has explained, initially the unclassified service "afforded some vent; and a rule promulgated by President Harrison, to the effect that a veteran dismissed from the classified service could be at any time reinstated without examination, afforded ground for a considerable number of changes."<sup>61</sup> But this was not sufficient to satisfy the Republicans, who continued to pressure McKinley for "more spoils". The first regression came with the Executive Order of July 27, 1897, which excepted from the civil service laws 438 deputy collectors in various Treasury field positions such as internal revenue and customs.<sup>62</sup>

But another Executive Order of July 27, 1897, conversely advanced the merit principles with respect to control over removals. This Executive Order (as amended and strengthened on May 29, 1899), required that hereafter:

No removal shall be made from the competitive classified service except for just cause and for reasons given in writing; and the person sought to be removed shall have notice and be furnished a copy of such reasons, and shall be allowed a reasonable time for personally answering the same in writing.<sup>63</sup>

Although this regulation extended to all Departments the control over removals as previously applied in the Post Office Department, at this time "... its enforcement

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<sup>61</sup> Fish, p. 226.

<sup>62</sup> History of the Federal Civil Service, 1789-1939, p. 87.

Deputy collectors subsequently were transferred back and forth between competitive and excepted status.

<sup>63</sup> U. S. Civil Service Commission. Fifteenth Report, July 1, 1897, to June 30, 1898. Washington, U. S. Govt. Print. Off. [1898] p. 51.

depended entirely upon the attitude of the President and his determination to hold his cabinet members and chief administrative officers to account." <sup>64</sup>

In his first annual message McKinley on the one hand indicated general support for the merit system, but hinted that further exceptions might be necessary:

. . . There are places now in the classified service which ought to be exempted and others not classified may properly be included. I shall not hesitate to exempt cases which I think have been improperly included in the classified service or include those which in my judgment will best promote the public service. The system has the approval of the people and it will be my endeavor to uphold and extend it. <sup>65</sup>

As is discussed in the following section, this reference led to a Senate investigation and ultimate report that recommended specific reductions in the competitive service.

Meanwhile, the Spanish-American War, despite its short duration, had the usual impact of modern warfare -- promoting a rapid expansion in the civilian as well as the military forces. This enlargement in the civil service in turn had ramifications for the merit system:

The deficiency appropriations act of 1898 provided that temporary employees might be appointed without regard to the civil service rules. In the next fiscal year, 3,500 persons were appointed without examination, although the Civil Service Commission had on its registers thousands of persons who had qualified in examinations for these positions. About half of these appointed without examination were given permanent classified appointments by Executive Order at the close of the six-months' Spanish-American War. <sup>66</sup>

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<sup>64</sup> Van Riper, p. 144.

<sup>65</sup> Richardson, v. XIII, p. 6275.

<sup>66</sup> History of the Federal Civil Service, 1789-1939, p. 88.

On the positive side, the War experience led to a furthering of reform ideals in that a merit system was immediately employed in the newly acquired American territory of the Philippines, and in a modified form in Puerto Rico as well.<sup>67</sup>

Finally, on May 29, 1899, the long anticipated roll-back of a portion of Cleveland's extensions in the competitive service occurred. McKinley issued an Executive Order providing for a revision of the civil service rules, which affected adversely, from the perspective of maintaining competitive status, almost 10,000 positions. As described by Van Riper:

Finally, on May 29, 1899, the long-expected ax fell through an executive order affecting approximately 10,000 positions. Nearly 6000 positions formerly under full merit system protection were excluded from it, while some 4000 positions were allowed to remain in the classified service but were excepted from examination. With the opening of the 'front door' to the latter group of positions, their incumbents were left protected only by the mild anti-political removal provision of the Pendleton Act and many of them were removed forthwith.<sup>68</sup>

In his annual message of 1899, McKinley provided this brief defense of his action:

The executive order of May 6, 1896, extending the limits of the classified service, brought within the operation of the civil service law and rules nearly all of the executive civil service not previously classified.

Some of the inclusions were found wholly illogical and unsuited to the work of the several Departments. The application of the rules to many of the places so included was bound to result in friction and embarrassment. After long and very careful consideration, it became evident to the heads of the Departments, responsible for their efficiency, that in order to remove these difficulties and promote an efficient and harmonious administration certain amendments were necessary. These amendments were promulgated by me in executive order dated May 29, 1899.

The principal purpose of the order was to except from competitive examination certain places involving fiduciary responsibilities or duties of a strictly confidential, scientific, or executive character which it was

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<sup>67</sup> For the Philippines Civil Service Act, see Seventeenth Annual Report pp. 85-89.

<sup>68</sup> Van Riper, p. 173.

thought might be better filled either by noncompetitive examination, or in the discretion of the appointing officer, than by open competition.<sup>69</sup>

It should be noted that the Civil Service Commission did not offer major resistance to this roll-back. Instead, in June of 1898 the Commission had suggested that certain positions then in the classified service might be appropriately exempted from the examination requirement. As Van Riper observed, "If the Commission itself did not draft the finale executive order [in May of 1899] it was in sympathy with it. . . ." <sup>70</sup> Although there was some vocal criticism of the Commission for seeming to sanction a spoils raid by the Republicans, the opposition was muted by the widespread feeling that perhaps Cleveland had gone too far. Further,

That the opposition to the order was not stronger and more effective was a tribute to McKinley's astuteness in political maneuver, as well as to the solid political position of the Republican party. For fifteen years no president had dared to undo the classifications of his successor for fear, in part at least, of upsetting the precarious political balance of the times. This time the reformers and considerable segments of the press raged, but to little avail. <sup>71</sup>

But despite the roll-back, and additional exemptions provided by the Congress in legislation, and competitive service grew slightly in total numbers during McKinley's term, due primarily to natural growth in positions already classified.

On September 14, 1901, Theodore Roosevelt unexpectedly was elevated to the Presidency, succeeding the assassinated McKinley. His energy and crusading zeal were soon the ramifications throughout the Federal Government. Moreover, Roosevelt had served six years as a Civil Service Commissioner, and this experience provided him with an excellent knowledge and understanding of the civil service, as well as a personal commitment to the merit system.

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<sup>69</sup> Richardson, v. XIII, p. 6405.

<sup>70</sup> Van Riper, p. 173.

<sup>71</sup> Ibid., p. 174.

Although Roosevelt was in sympathy with merit principles, he, like Cleveland, understood the value of patronage for the President with respect to concerns of "practical politics," and particularly, in his case, the relationship between astute appointments outside the competitive service and the assertion of his personal control over the Republican Party. Shortly after becoming President, Roosevelt wrote to his close friend, Senator Henry Cabot Lodge of Massachusetts, ". . . In the appointments I shall go on exactly as I did while I was Governor of New York. The Senators and Congressmen shall ordinarily name the men, but I shall name the standard, and the men have got to come up to it." <sup>72</sup> Roosevelt continued to listen to recommendations from the Hill -- and to expect legislative support in return; there was "patronage always in the background as a legislative incentive." <sup>73</sup>

One of Roosevelt's most fortunate appointments was that of William Dudley Foulke as a member of the Civil Service Commission. Foulke had been a prominent member of the reform movement and long active in League affairs. <sup>74</sup> Foulke provided an inside account of civil service activities in a book, where he suggested a three fold division of Roosevelt's contributions: extension of the merit system, changes in the rules, and improved enforcement of the law. <sup>75</sup>

Roosevelt extended the competitive service to numerous positions previously unclassified, as well as returning most of those placed removed during McKinley's roll-back. One reference in a Civil Service Commission document estimated

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<sup>72</sup> Cited by Van Riper, p. 183.

<sup>73</sup> Ibid., p. 185.

<sup>74</sup> Stewart, pp. 64-65.

<sup>75</sup> Ibid., p. 65.



that "in all, 35,000 formerly unclassified positions were classified during Roosevelt's Administration." <sup>76</sup> Among the varied inclusions were rural free-delivery carriers, employees of the Isthmian Canal Commission, and reinstitution of the War Department Field Services. The major extensions accomplished via Executive Orders of Theodore Roosevelt are as follows: <sup>77</sup>

Field Services, War Dept. (reincluded), Nov. 18, 1901 (1,888)  
 Rural free-delivery service (clerks, messengers etc.) Nov. 27, 1901 (342)  
 Rural free-delivery service (carriers) Feb. 1, 1902 (6,009)  
 War Dept. (positions in Philippines) March 26, 1904 (426)  
 Isthmian Canal Commission, Nov. 15, 1904 (562)  
 Customs Service - deputy collectors, deputy surveyors, cashiers, and naval officers (removed from excepted list), Nov. 23, 1904 (428)  
 Forestry Service, Dec. 17, 1904 (548)  
 Employees of Juneau, Alaska, customhouse, Jan. 24, 1905 (29)  
 Special agents, General Land Office, and inspectors of surveyors-general and district land offices, March 3, 1905 (90)  
 Cashiers and finance clerks in post offices, March 30, 1905 (353)  
 Immigration Service (partial), March 31, 1905 (157)  
 Laborers assigned to classified duties, Jan. 12 and March 30, 1905 (1,069)  
 Clerks in Panama, July 17, 1906 (36)  
 Laborers, Bureau of Fisheries, July 17, 1906 (55)  
 Internal Revenue Service, deputy collectors (transferred from excepted service) Nov. 6, 1906 (1,099)  
 Boston Customhouse, laborers, May 10, 1907 (33)  
 Interstate Commerce Commission, May 11, 1907 (15)  
 Geological Survey, Dec. 7, 1907 (292)  
 Mint and assay service, Feb. 4, 1908 (23)  
 Various employees not previously classified, Oct. 9, 1908 (588)  
 Fourth-class postmasters in 14 States, Nov. 30, 1908 (15,488)  
 Army transport service, Dec. 3, 1908 (117)  
 Deputy marshals, March 2, 1909 (175)

During the Roosevelt Administration several new Federal agencies were created as a result of legislation assigning new functions to Government,

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<sup>76</sup> History of the Federal Civil Service, 1789-1939, p. 92.

<sup>77</sup> U. S. Civil Service Commission. Annual Reports, 1901-1909. Washington, U. S. Govt. Print. Off.: 20th, p. 99; 21st, pp. 9-10; 22nd, p. 140; 23rd, pp. 13-14; 24th, pp. 5-7; 25th, p. 8; 26th, pp. 8-9.

such as the Pure Food and Drugs Act and the Federal Meat Inspection Act in 1906. "Of the new positions created by the expansion of Federal functions, 93,000 were filled by the merit system through competitive examinations conducted by the Civil Service Commission."<sup>78</sup> Steps were also taken toward improving the unclassified service, short of full merit coverage. In 1906 examinations for 298 positions in the Consular Service were made subject to competitive exams, the previously instituted tests having fallen into disuse after 1897, and in 1909 an examination board was established for the Diplomatic Service.<sup>79</sup>

The revision of the Civil Service Rules, promulgated by Executive Order of March 20, 1903, contained important definitional changes which facilitated extensions, by stating in part: "Under the terms of the classification orders, all employees who are not appointed by and with the advice and consent of the Senate, or are not employed merely as laborers or workmen, are classified and subject to the rules, and if not specifically excepted under Schedule A, are subject to competitive examination."<sup>80</sup> Previously the classified service had been defined as comprising only those groups specifically included whereas now it was to encompass the entire service except those positions specifically excluded. A subsequent opinion of the Attorney General in 1908 substantiated the emphasis on inclusiveness unless places were clearly intended to be excepted: "Congress may, of course, at any time it deems proper, exempt any position or class of positions from the operation of the act, but to do this it must use language indicating clearly and affirmatively its intention that the

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<sup>78</sup> History of the Federal Civil Service, 1789-1939, p. 92.

<sup>79</sup> Ibid., p. 93.

<sup>80</sup> USCSC. Twentieth Annual Report, pp. 44-45.

Civil Service Rules should not be applied." <sup>81</sup> In the aftermath of this opinion, "Congress has consequently worded its exceptions by stating that jobs may be filled ' . . . without regard to the civil service laws and regulations.' " <sup>82</sup> In addition, because of the reformulation under Roosevelt, the merit system was extended to many of the lower categories of positions. As Van Riper has explained:

The problem of laborers had long agitated the minds of those interested in the merit system. Roosevelt made it clear that he considered the Pendleton Act to exclude only 'mere laborers' and not skilled workmen. Issuing executive orders to implement his definitions with systems of registration and, where appropriate, examination, he, in effect, extended the merit system to many of the lower categories of positions. <sup>83</sup>

Moreover, many positions previously in the excepted category were brought into the competitive system; this resulted from a revision of Schedule A, "with a view to placing as many as possible of these positions within the merit system." <sup>84</sup> Although Roosevelt via these various changes greatly extended the competitive service, he was roundly criticized for the steady increase in the making of individual exceptions to the rules, so as to appoint particular persons without examination: "in 1901 there were 3; 12 in 1902; 43 in 1903; 39 in 1904; 70 in 1905; 71 in 1906; and 78 in 1907." <sup>85</sup> Roosevelt's response was that it was "better to make a few individual exceptions than to follow the McKinley policy of excepting large groups of positions." <sup>86</sup>

<sup>81</sup> 26 Op. Atty. Gen. 502, Feb. 12, 1908.

<sup>82</sup> Hoover II Task Force Report, p. 172.

<sup>83</sup> Van Riper, pp. 195-96.

<sup>84</sup> Ibid., p. 196.

<sup>85</sup> Stewart, p. 67.

<sup>86</sup> Van Riper, p. 189.

The new Rules of 1903 were sufficiently well formulated that they remained in force until 1938, with only minor modifications. Foulke has described the improvements in the merit system resulting from the 1903 changes as follows:

But even more important than the extensions of the classified lists were the changes made in the rules for the purpose of stopping leaks and irregular appointments and securing the stricter operation of the law. These changes enabled the Commission better to enforce the provisions of the act requiring the apportionment of appointments among the different States on the basis of population; gave it power to procure testimony from employees in its investigations; to require the withholding of salaries from persons holding office in violation of the law; to stop temporary appointments of persons outside the eligible lists when eligibles were available; to require examinations as well as six months' active service for transfers to new positions from those who had entered the service by mere classification of the offices they were holding; to prevent reinstatements for the purpose of immediate transfers to other places; to limit transfers to cases when the duties of the two positions were similar; to guard against reinstatements after dismissal for cause and against the assignment of laborers to classified work. They prevented promotions through political influence; restricted partisan activity as well as lobbying in Congress by employees, and in other ways strengthened the competitive system.<sup>87</sup>

As the competitive service was greatly expanding and a more permanent work force evolving, the idea of political neutrality gained increasing acceptance, so that by the end of Roosevelt's Administration, it was "considered almost on equal terms with the ideas of examination and relative security of tenure as a fundamental aspect of the American version of the merit system."<sup>88</sup> In promoting this principle, Roosevelt's Attorney General reversed a previous opinion and, on October 17, 1902,

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<sup>87</sup> Cited in Stewart, p. 66.

<sup>88</sup> Van Riper, p. 89.

held that it was not permissible for Federal workers to solicit political contributions from each other by mail, thereby plugging one of the loopholes in the regulation of political assessments.<sup>89</sup>

With regard to the issue of political activity by Federal workers, Roosevelt concluded that Cleveland's Executive Order on the subject was unenforceable and probably unrealistic, because it made no distinction between classified and unclassified positions in setting forth the prohibitions. In a letter of June 13, 1902, to the Civil Service Commission Roosevelt suggested the need for establishing separate provisions for competitive service and unclassified workers. With respect to the latter group, he indicated that it was

. . . impossible to go beyond the statement, 'Officeholders must not use their offices to control political movements, must not neglect their public duties, must not cause public scandal by their activity.' Within the merit system, however, it was a different matter, and he felt politics of all kinds should be rigorously excluded. This dual interpretation of the limits of political activity lasted with practically no variation until the passage of the Hatch Acts under Franklin D. Roosevelt.<sup>90</sup>

Subsequently, via Executive Order of June 3, 1907, Roosevelt amended Rule I to read as follows:

No person in the Executive civil service shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof.

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<sup>89</sup>24 Op. Atty. Gen. 133.

<sup>90</sup>Van Riper, p. 187.



Persons who by the provisions of these rules are in the competitive classified service, while retaining the right to vote as they please and to express privately their opinions on all political subjects shall take no active part in political management or in political campaigns.

In addition to enforcing vigorously the law, Roosevelt sought to realize its potential. This led to the "transmutation of the concept of the Pendleton Act into the more inclusive idea of public personnel administration. . . ." <sup>91</sup> One manifestation of this concern was the appointment in 1905 of the Committee on Departmental Methods, or the Keep Committee. This group was primarily concerned with questions of organization, but also examined the public service and highlighted the continuing problems of pay scales and superannuation. <sup>92</sup> So administrative and technical reforms in the civil service, as well as the extensions of coverage, were important legacies from the Administration of Theodore Roosevelt.

The Administration of Taft was likewise supportive of the merit system. William Taft had previously headed the Cincinnati Civil Service Reform Association and had served as Governor of the Philippines when the civil service system was established there. As President, Taft continued with efforts to extend the merit system and modernize the service, although he was perhaps less diligent regarding enforcement and hence maintenance of standards than Roosevelt had been. <sup>93</sup>

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<sup>91</sup> Ibid., p. 181.

<sup>92</sup> The Keep Committee never published a composite report. A copy of the findings relating to personnel is in the Commission Library.

<sup>93</sup> Van Riper, pp. 218-19.

Taft made three major extensions of the competitive service. By Executive Order of September 30, 1910, he brought in around 4,000 assistant postmasters and post office clerks.<sup>94</sup> An Executive Order of October 15, 1912, covered-in the remaining fourth class postmasters, numbering some 36,236; and following his defeat for re-election, an Order of December 7, 1912, gave competitive status to some 20,000 artisans in the navy yards.<sup>95</sup> These skilled workmen had already been placed under special regulations (although not fully covered-in) by Roosevelt. With regard to the postmasters blanketed-in, Van Riper explains: "Unfortunately, the new Democratic administration of 1913 was largely able to circumvent the intent of Taft's classification through a series of procedural manipulations. Only briefly during Wilson's second term, and then not again until the middle thirties, were these offices to find themselves under reasonably firm merit system protection."<sup>96</sup>

Beyond these extensions, Taft repeatedly advocated the expansion of the competitive service to include higher administrative positions, most of which were subject to Senate confirmation and hence outside the prerogative of the President on the basis of the authority delegated by the Pendleton Act. In his annual messages to the Congress in 1910, 1911, and 1912, he recommended the classification of such positions as collectors of customs and internal revenue, immigration commissioners, and marshals. While bills were introduced to authorize such inclusions, Congress took no action.<sup>97</sup> Overall Taft's relations with the Congress were not particularly

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<sup>94</sup> USCSC, Twenty-eighth Annual Report, p. 8.

<sup>95</sup> USCSC, Thirtieth Annual Report, p. 8.

<sup>96</sup> Van Riper, p. 214.

<sup>97</sup> Stewart, pp. 14-15.

harmonious. He failed to maintain effective control of the Republican Party, despite his effort to enlist the persuasion of the appointment power, thereby illustrating that the "patronage may be used to bridge gaps in the constitutional framework, but it is only effective if it is astutely managed and if the breach is not too wide."<sup>98</sup>

Van Riper has contended that Taft's "most decisive act" in terms of preserving the merit system from attempted partisan raids, was "his veto of the legislative, executive, and judicial appropriation bill of August, 1912, because it provided for a seven year tenure of office for all classified employees."<sup>99</sup> Further, Taft's threat to veto the Census bill even before he assumed office led to the adoption of a law requiring selection of most census employees by a "mild version of the merit system."<sup>100</sup>

Under Taft, training programs were instituted in the Patent Office, the Bureau of Standards, and the Forest Service to increase "the efficiency of their employees and to prepare them for new and more responsible work."<sup>101</sup> Taft also reinstituted the McKinley rule regarding removals, which had not been observed under Roosevelt. Investigation into administrative reform was also pursued under Taft, via his Commission on Economy and Efficiency. The recommendations of this study with respect to the civil service amounted to a call for the Commission to become a

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<sup>98</sup> Van Riper, p. 212.

<sup>99</sup> Ibid., p. 214.

<sup>100</sup> Ibid.

<sup>101</sup> History of the Federal Civil Service, 1789-1939, p. 103.

central personnel agency for the Federal Government and to take on a variety of new functions -- "revolutionary doctrine for the federal service."<sup>102</sup>

Woodrow Wilson, who had served as Vice President of the National Civil Service Reform League from 1910-1912, was subjected to considerable pressure for spoils, since the Democratic Party had been "without the sustenance of federal patronage since 1897." The pressure led Wilson, who considered appointments as something of a burden, to depart from tradition by announcing that he could not see job applicants personally except at his request. Subsequently, Wilson delegated much discretion over appointments, as he came to appreciate the value of patronage as a bargaining tool with the Congress.<sup>103</sup>

During Wilson's Administration the so-called "modern" spoils methods became a significant factor, as typified by the two-year exception made of new Internal Revenue Bureau jobs; this revival of spoils practice resulted primarily from statutes, as described below. However, one abuse might have been halted by the President. As noted already, by 1913 career diplomats occupied many ministerial and consular posts, reflecting an increasing professionalization in this field. But Wilson's Secretary of State Bryan argued that such posts should be filled by political appointees, and with the President's acquiescence he proceeded to undertake

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<sup>102</sup> Van Riper, p. 222. See: *Economy and Efficiency in the Government Service: Message of the President of the United States transmitting Reports of the Commission on Economy and Efficiency. House Document No. 670, 62nd Cong., 2nd sess. (April 4, 1912).*

<sup>103</sup> Van Riper, pp. 230-34.

a clean sweep of the top levels. "Within a few months, a decade and a half of tenure was shattered and an extraordinary group of political hacks and friends of Bryan were installed all over the world."<sup>104</sup>

The First World War created a grave challenge for the merit system, with the need for rapid expansion of the civil service concurrent with the military mobilization. Data on civilian personnel administration during this period is scarce, and resulting interpretations ambivalent. The National League was quite critical of the number of exemptions from competitive examinations allowed:

Personnel hired under the War Risk Insurance Act of 1914 were, before its amendment, outside the merit system. By an executive order of November 21, 1917, President Wilson authorized Herbert Hoover to choose his staff for the Food Administration without complying with the civil service rules. The Fuel Administration was then accorded the same authority. In its annual report the Civil Service Commission maintained that the Food Administration order was made on its advice, because part of the money with which the employees were paid came from other than federal sources. Nevertheless, in January, 1918, the Bureau of Printing and Engraving, hardly an emergency agency, was for the duration of the war permitted to employ without regard to the civil service rules. This exemption was followed in March, 1918, by the extension of the same privilege to the United States Employment Service and to the ordnance plants of the War Department. In July, 1918, skilled laborers of the Government Printing Office and employees of the War Labor Administration Service were also excepted from examination.<sup>105</sup>

On the other hand, another source explained that in order to fill certain positions rapidly, examinations were simply waived for the duration of the emergency. However, the largest exemption from the competitive service during the war involved

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<sup>104</sup> Ibid., p. 238.

<sup>105</sup> Ibid., p. 255.



transferring groups of positions heretofore in the competitive service into the military service. The first of these groups to be transferred from civil service to the military were the positions of approximately 2,200 surfmen which were moved into the Navy in fiscal year 1915. Other examples were the absorption into the Naval Reserve Corps of several thousand clerk positions, the transfer of 7,000 field clerk positions into the Army, the removal of 4,000 positions into the Quartermaster Corps, and the absorption of the entire Life Saving Service by the Coast Guard.<sup>106</sup>

Against this background, Van Riper concluded:

Whether the Commission simply could not fulfill all its obligations or whether it was encouraging legitimate exceptions is difficult now to determine. It is the opinion of some that McIlhenny (member of the Civil Service Commission) and Chief Examiner George R. Wales, through their willingness to compromise on a few exceptions, prevented the wholesale suspension of the merit system.<sup>107</sup>

An Executive Order of March 31, 1917, providing for the initial steps in the competitive selection of postmasters, constituted "Wilson's greatest and almost his sole contribution to the extension of merit principles. . . ." Via this order, Wilson provided that, under certain limited circumstances, postmasters of the more important cities (fourth-class were already classified) "would be selected through a version of the merit system in which he would appoint, subject to the usual senatorial confirmation, the top man on the register rather than follow the 'rule of three.' "<sup>108</sup>

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<sup>106</sup> Hoover II Task Force Report, p. 174.

<sup>107</sup> Van Riper, p. 255.

<sup>108</sup> Ibid., p. 239.

After 1883, women and blacks, although still subject to some discrimination, had been entering the service in greater numbers. During Wilson's Administration important developments occurred with respect to the merit principle of equality of opportunity. On the one hand, equality was furthered by a decision of the Commission to open all tests to both women and men on November 15, 1919. During the war, women had entered the Federal service in large numbers, accounting for 75 percent of the appointments in Washington and 50 percent elsewhere. However, it was not until the Classification Act of 1923 that salaries for equal work were required to be the same for both sexes.<sup>109</sup> Moreover, in a precedent-shattering change in the rules regarding political activity by Federal workers, the Commission decided that employees could participate in the women's suffrage movement. Apparently Wilson himself had suggested to the Commission that such activity was "not incompatible with the merit system since it was not a partisan political movement in the ordinary sense."<sup>110</sup>

On the other hand, discrimination against blacks increased after May 27, 1914, when the Commission ordered that photographs accompany all applications. As described by Van Riper:

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<sup>109</sup> Ibid., pp. 260-61.

<sup>110</sup> Ibid., p. 241.

Whether or not this change was directed solely at Negro applicants for public office is not absolutely clear. However, the Wilson regime was the subject of bitter attack by Negro organizations for its discriminatory policies toward Negroes. The President replaced the few Negro diplomats with whites and, as had Taft, refused to appoint Negroes in the South.<sup>111</sup>

At this same time Wilson apparently condoned the segregation policies implemented in the Post Office and Treasury Departments. Thus, the "period from 1913 to 1921 deserves to be considered the most critical period in the recent history of Negro federal civil employment."<sup>112</sup>

No extensions of the merit system were made under President Harding; instead it was subjected to severe strains during his short term. Faced with a declining number of Federal positions in the aftermath of demobilization, along with the appetites of Republicans out of office for eight years, Harding proved unable to withstand the pressures for patronage. In a discussion titled, "The Spoils Raid under Harding," Stewart has suggested that during this Administration it "became evident that a determined effort was being made to break down the merit system in certain places in the national departments at Washington."<sup>113</sup> According to this analysis, spoilsmen in the Republican Party realized that the public would not tolerate a complete return to the old system, so they argued that the merit system had "gone too far" and that the Republicans, with their mandate from the voters, needed to remove incumbents and fill "key positions" with their supporters in order

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<sup>111</sup> Ibid., p. 241.

<sup>112</sup> Ibid., p. 242.

<sup>113</sup> Stewart, pp. 161 ff.

to achieve their program. The feelings of resentment are portrayed in this passage

by Secretary of Labor James Davis:

My efforts in trying to increase the efficiency of this department and in making it more quickly responsive to changed conditions and to new economic problems have driven me to the conclusion that the classified service embraces too large a percent of all the personnel of the department. From present experience I am inclined to the opinion that as the responsibility and discretionary powers of a position increase there should be less of the classified service.<sup>114</sup>

Harding did withstand pressure to revoke entirely Wilson's order of 1917 regarding the presidential postmasters, but on May 10, 1921, he issued an Executive Order reinstating the 'rule of three' rather than automatically selecting the person on top of the list, thereby facilitating Republican appointments.<sup>115</sup> Harding's most notorious personnel action involved an Executive Order of March 31, 1922, removing 31 employees in the Bureau of Printing and Engraving and the abolition of the positions, offering no reason other than "the good of the service." He then created new positions and filled them with different appointees. The very legality of this move was questionable, and an outcry ensued.<sup>116</sup>

In reaction to the excesses of the spoils practice under Harding, the League arranged a public protest meeting, held in Washington on April 27, 1922.<sup>117</sup> "What, if any, causal relationship there was between the overwhelmingly favorable press

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<sup>114</sup> Cited *ibid.*, p. 162.

<sup>115</sup> Stewart, pp. 121-24.

<sup>116</sup> *Ibid.*, pp. 163-64.

<sup>117</sup> *Ibid.*, pp. 165-67.

response which the meeting engendered and the subsequent decline of the spoils raid will never be known."<sup>118</sup>

In 1923 Calvin Coolidge acceded to the Presidency upon the death of Harding. Although Coolidge was not an ardent supporter of civil service reform, in his first message to the Congress he acknowledged that he thought the merit system was the best method for selecting public officials.<sup>119</sup> By this point the Republican spoils raid had subsided, and Coolidge, as well as his successor Herbert Hoover, made some extensions of the merit system. However, at this time the number of positions which might be placed under the merit system at the discretion of the President was relatively small. By far the largest additions to the competitive service during the 1920's resulted from Congressional action -- the establishment of the Foreign Service in 1924 and the classification of the Prohibition Bureau in 1927 (as discussed below).

Summary data on the number of employees blanketed-in under Harding, Coolidge, and Hoover were requested from the Civil Service Commission in 1933 by House Democrats and were opportunely placed in the Congressional Record during the consideration of agricultural relief measures (involving additions to the

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<sup>118</sup> Van Riper, p. 288.

<sup>119</sup> Ibid., p. 290.



excepted service).<sup>120</sup> Coolidge brought in a total of 1,537 positions, via fourteen Executive Orders. The largest extensions were in the Post Office Department -- 418 village carriers by order of January 26, 1926, and 548 laborers at first and second class offices by order of September 30, 1927. Four other extensions involved War Department employees: 36 engineers and chemists (August 29, 1924), 236 nonclerical positions in Army transport (October 11, 1924), 29 electricians and foremen (September 12, 1927), and 160 civilian employees in Army hospitals (November 5, 1927). Five of the orders blanketed-in but one position each,<sup>121</sup> with the three remaining covering-in 62 positions in the Indian Service (June 2, 1926), 20 positions in the Panama Canal Washington Office (July 15, 1927), and 23 press helpers in the Bureau of Engraving and Printing (February 15, 1929). Hoover blanketed-in 2,620 positions with twelve Executive Orders. By far the largest involved 1,635 employees in the Veterans Administration on April 23, 1931. The other eleven extensions in various Departments were as follows:

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<sup>120</sup> Congressional Record, March 22, 1933, v. 77: 735, 736. In inserting the figures, Representative Bankhead stated:

"The aggregate of these statistics, Mr. Speaker, shows what was done under these three Republican Administrations, and I have no doubt it was done for no other purpose on earth -- and it may have been a laudable political purpose -- except to guarantee the perpetuation in office of these Republican officeholders under Executive Order. . . . Those three Presidents, by blanket Executive Orders, covered into the civil service system, so that they could not be disturbed when a Democratic administration came into office, 4,559 employees.

"Now, this bill about which so much complaint has been made does not provide in its terms that the Secretary of Agriculture shall not consider the possibilities of appointing men from the civil service list. It only gives him that discretion. . . ."

<sup>121</sup> Executive Orders of April 24, 1926, May 19, 1926, September 15, 1926, May 18, 1927, and June 6, 1927.

Commerce, shipping commissioners, Oct. 4, 1930 (14)  
 Interior, Indian Service, Jan. 30, 1931 (6)  
 Navy, Philippines Service, May 15, 1931 (115)  
 War, do do do (59)  
 Veterans Administration, attorneys, June 3, 1931 (193)  
 Interior, Park Service, Aug. 10, 1931 (13)  
 Commerce, miners in Bureau of Mines, Jan. 15, 1932 (36)  
 Justice, various groups, Feb. 2, 1932 (231)  
 Commerce, various employees, March 10, 1932 (147)  
 Treasury, Mounted inspectors in Customs Service, June 21, 1932 (170)  
 Agriculture, Assistant to Secretary, Aug. 18, 1932 (1)

There were also people brought into the classified service, but excepted from the requirements of the Civil Service Rules by means of special Executive Orders during these Administrations. Harding so excepted 79 positions (his only additions to the classified service, having made none to competitive status, as noted already), Coolidge, 207, and Hoover, 116 (as of early 1933 when the list was compiled).<sup>122</sup>

Herbert Hoover had served as Secretary of Commerce under Coolidge, and had considerable knowledge and interest in personnel problems. Many years after his Presidency he was to provide leadership for two (Hoover) Commissions studying the organization of the Executive Branch.<sup>123</sup> During his Administration, Hoover's concern for administrative efficiency and economy, along with the economic pressures of the depression, resulted in efforts to centralize Federal personnel functions in the Civil Service Commission (as surveyed above). By Executive Order of April 25, 1931, Hoover established the Council of Personnel Administration, chaired by

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<sup>122</sup> Congressional Record, March 22, 1933, v. 77: 736.

<sup>123</sup> For survey of the Hoover Commissions, see Galemore report elsewhere in this volume.

the president of the Civil Service Commission: "Its objectives were broad, and, almost immediately, advisory committees were designated to work on a group of special projects. Among the first were studies of transfer and training methods, neither of which had received much attention for years,"<sup>124</sup> In 1932 Hoover forwarded recommendations to the Congress that would centralize personnel administration in a single agency. H.R. 12200, a draft bill incorporating the ideas, was referred to the House Committee on Civil Service on May 20, 1932, but no further action was taken.<sup>125</sup> The bill sought to

consolidate personnel activities in a 'Civil Service Administration' to which the duties of the Civil Service Commission, the Personnel Classification Board and other agencies involved in personnel matters would be transferred. The new agency would be headed by a Civil Service Administrator, appointed by the President and confirmed by the Senate for a six-year term. The Civil Service Commission would be replaced by a bipartisan Board of Review of three members, with staggered terms of office, also appointed by the President and confirmed by the Senate, at least one of whom (a new requirement) was to be a woman.<sup>126</sup>

Finally, with respect to Executive actions during this period, it is necessary to note developments subsequent to Theodore Roosevelt's Executive Order 642 of June 3, 1907 (amending Rule I), regulating political activities by Federal employees.

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<sup>124</sup> Van Riper, p. 311.

<sup>125</sup> Congressional Record, v. 76: 10834.

<sup>126</sup> USCSC. Bureau of Policies and Standards. The Responsibilities of the U.S. Civil Service Commission -- Conflict or Compatibility. Washington, typed report (July, 1975) p. 7. Other contemporary studies were likewise calling for a central personnel agency, such as the Feldman Study of 1931; see *ibid.*, pp. 6-7.

As increasing numbers of Federal employees were placed in the competitive service, and hence subject to the Civil Service Rules including the prohibition on active participation in political campaigns, in geographic areas containing a concentration of Government workers, such as the Washington metropolitan area, the adverse impact of the regulation on citizen involvement in local government became apparent.

Beginning with President Taft, exceptions to Rule I were made, so as to allow participation in local politics by Federal workers residing in specified locales.

Executive Order (E.O.) 1072 of May 14, 1909, provided for designated exceptions in areas near a navy yard and E.O. 1472 of February 14, 1912, set up a framework for allowing Federal workers even to run for office at the local level if residing in an area listed as one containing sufficient Federal employees. Taft's original list of communities were all located in Maryland or Virginia and included Takoma Park, Kensington, Garrett Park, Chevy Chase, Glen Echo, Hyattsville, Mount Rainier, Falls Church, Vienna, and Herndon. President Wilson added additional communities to the excepted list by E.O. 1930, of May 4, 1914, and E.O. 1947, of May 26, 1914.

The list of locales grew with Executive Orders: 3597 (December 24, 1921), 3668 (April 29, 1922), and 3860 (June 7, 1923) by Harding; 4013 (May 19, 1924), and 4048 (July 12, 1924), by Coolidge; and 5627 by Hoover on May 20, 1931.<sup>127</sup>

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<sup>127</sup>Rimensnyder, Nelson F. Regulation of Political Activities of Federal Employees Prior to Enactment of the Hatch Political Activities Act (1939-1940): A History of Policy. U.S. Library of Congress, Congressional Research Service [multilith 73-57, December 29, 1972] pp. 15-19.

### III. Congressional Actions

The constitutionality of the Pendleton Act was upheld in an 1897 case, the decision for which stated, in part, "If the time should ever come. . . when Congress cannot regulate the administration of the civil service. . . , it will be an untoward event which will strike at the very foundation of the existence of the government."<sup>128</sup> Throughout the period from 1883 to 1932, some in Congress sought to revoke or at least to curtail the merit system, and Congressional actions led to certain exemptions from the competitive requirements. After 1883 Congress continued to exercise general oversight with respect to the civil service, by conducting a series of special investigations. Although major responsibility for extending the coverage of the competitive service rested with the President, certain extensions were made pursuant to specific legislative acts. Congress likewise has exercised legislative authority over a variety of public personnel matters aside from extension of the classified service per se.

With respect to attempts actually to repeal the Pendleton Act, an unpublished history, prepared by the Civil Service Commission in 1939, provided this tabulation:

During Cleveland's first administration, seven bills to repeal the Civil Service Act were introduced in Congress; in Harrison's administration, eight; in Cleveland's second administration, four such bills were introduced. As the Civil Service Commission grew in public esteem, the attempts to repeal the Civil Service Act ceased, but other bills of an adverse nature were and still are introduced each session.<sup>129</sup>

As Fish noted, however, these bills for outright repeal were seldom debated; instead they were adversely reported by the Committee on Civil Service Reform

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<sup>128</sup> Butler v. White, 33 F 578 (1897).

<sup>129</sup> History of the Federal Civil Service, 1789-1939, p. 69.



in the House or the Committee on Civil Service and Retrenchment in the Senate. <sup>130</sup>

Leonard White, in his administrative history covering the period from 1869-1901, titled a chapter on the Commission's early history "The Struggle for Existence." He examined various hostile countercurrents to reform, concluding that opponents' failure to repeal the Pendleton Act forced them to consider alternative methods of crippling the movement. Four major alternatives to the competitive system were advanced: "(1) evasion; (2) starvation by crippling the resources of the Civil Service Commission; (3) substantial abandonment by a return to a system of agency boards; and (4) a fixed term for all government employees." <sup>131</sup> The second and fourth tactics came closest to success.

With respect to financial starvation, critics of reform recalled the demise of the Grant Civil Service Commission for want of operating funds. On more than one occasion in the latter half of the Nineteenth Century, "a hostile Congressman introduced a successful motion to strike out the Commission's entire appropriation. Each time, a reconsideration of the motion restored the money." <sup>132</sup> Fish noted that in the early years Congress regularly launched a debate over the very existence of the Commission in the course of the appropriations discussion:

The debate on these appropriations are not usually very edifying. Epithets are freely hurled: the Civil Service Commission has been called a 'Republican, Pecksniffian, political machine'; the reformers, 'eunuchs and sissiri of American politics, canting prelates and Pharisees'; while the system has been described as 'conceived in inequity and born of hypocrisy. . . , administered infameously and sustained by cowardice and demagogy.' <sup>133</sup>

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<sup>130</sup> Fish, p. 240.

<sup>131</sup> White. *The Republican Era*, p. 310.

<sup>132</sup> *History of the Federal Civil Service, 1789-1939*, pp. 68-69.

<sup>133</sup> Fish, p. 240.

White added that, although the Commission never was subjected to a complete curtailment of appropriations, it was chronically understaffed, which led to work backlogs and the "detailing" of employees from other agencies to do most of the examination rating; usually the employees so loaned were not among a Department's most competent. <sup>134</sup>

The alternative of fixed terms of office was periodically considered after 1883. In 1887 the old Tenure of Office Act of 1867 was finally repealed, although by this time it was a dead letter (due to a series of amendments). Van Riper has noted that this episode, taking place during Cleveland's first term, "ended the last major constitutional quarrel in American history over the authority of the President and Congress with respect to the removal power." <sup>135</sup> Subsequently, the battle was not one of constitutional authority, but a disagreement over considerations of substance. With respect to a bill stipulating a four-year term for all subordinate officials introduced in 1894, the Commission declared: "Practically, this, of course, means to make the spoils system in its worst form obligatory instead of permissive. . . . The bill might properly be titled 'A bill to secure hopeless inefficiency in the governmental department.' " <sup>136</sup> The last serious promotion of this idea occurred in 1912, when the passage of a measure establishing a seven-year tenure limitation was prevented only by the veto of President Taft, as described already.

Congress exercised its oversight authority with respect to the operations of the Commission frequently in the early years, conducting four investigations

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<sup>134</sup> White. *The Republican Era*, p. 313.

<sup>135</sup> Van Riper, p. 120.

<sup>136</sup> Cited by White, p. 317.

between 1888 and 1898; the "temptation to attack the administration for supposed failure to observe the civil service rules was too much for either party to withstand. . . ." <sup>137</sup> The first investigation "was authorized by a Republican Senate in 1888; it revealed the failure of the Cleveland administration to prevent political assessments in the field service, and was released on October 10, 1888, in time to be influential in the pending presidential election." <sup>138</sup>

On January 27, 1890, the House adopted a resolution to establish a Select Committee on Reform in the Civil Service, which read: "It is deemed expedient that the acts and doings and practical workings of the Civil Service Commission . . . should be thoroughly investigated." <sup>139</sup> The Committee was created in response to charges by prominent journals of alleged evasions of the law by the Commission itself. In the Report issued in March of 1891 the Commission received praise for its efforts: "Since the creation of the Civil Service Commission. . . the public service has been greatly benefited, and the law, on the whole, well executed." But while the Commission was exonerated of the accusations, a bill accompanying the Report advocated the abolition of the Commission as then constituted and the creation of a Civil Service Office headed by a single Commissioner, to be assisted by two deputies, the Committee concluding "that instead of a commission as it now exists, there would be better administration of the law if there was one responsible head." According to a recent study by the Commission, in which various historical recommendations

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<sup>137</sup> White. *The Republican Era*, p. 304.

<sup>138</sup> *Ibid.* The findings were published as Senate Report 2373, 50th Cong., 1st Sess. (Oct. 10, 1888).

<sup>139</sup> *Congressional Record*, v.

were surveyed, beginning with this 1890-91 investigation of the Commission, "It is apparent from a reading of the Select Committee's report that its motivation was the improved administrative efficiency expected to be gained under a single administrator, as contrasted with tripartite administrative management, and not the capacity of the Civil Service Commission to carry out the functions for which it was constituted."<sup>140</sup> Among other things, the draft bill of 1891 also called for increased removal protections and the right of appeal for employees in the classified service. The House did not approve the Committee's bill, although eventually most of the provisions were adopted in a piecemeal fashion. With respect to this same investigation, Fish commented upon its political consequences: ". . . though it found nothing to discredit that body [the Commission] it did find enough instances of removals to furnish a good tu quoque argument for the spoilsmen."<sup>141</sup>

The third investigation of the Commission was more particularistic in that it involved a conflict of personalities between Theodore Roosevelt as a member of the Commission and John Wanamaker as Postmaster General and was focused on a single locale -- the Baltimore post office. At issue in this 1892 investigation was the evasion of the civil service law there and the respective authority of the Commission and the Department to deal with the offenders.<sup>142</sup>

The last of these early investigations resulted from a Senate resolution of March 23, 1897, largely motivated by the desire of the new Republican Congress in support of the new Republican President, to investigate the operations of the

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<sup>140</sup> USCSC. Responsibilities of the U. S. Civil Service Commission, pp. 3-4. The findings were contained in House Report 4038, 51st Cong., 2nd Sess. (March 2, 1891).

<sup>141</sup> Fish, p. 224.

<sup>142</sup> White. The Republican Era, p. 304. The findings were published as House Report 1669, 52nd Cong., 1st Sess. (June 22, 1892).

civil service under Cleveland. Of particular concern was the large-scale extension in 1896 (as discussed above), and the limitations this imposed on appointments by President McKinley. The Report of the Senate Committee, issued on March 9, 1896, attacked Cleveland's Executive Order of 1896, and provided a foundation for McKinley's roll-back in 1899.<sup>143</sup> As summarized by Fish, the Report "stated that the classification was too extensive, and recommended certain specific reductions, amounting in all to about 10,000; a minority reported in favor of about 3,000 exceptions, and a second minority made no specific recommendations."<sup>144</sup> But while the majority position in the Report concluded that Cleveland's blanketing-in had "gone too far" and retrenchment was called for, overall the investigation "failed to turn up anything derogatory and the Civil Service Commission was reluctantly given a clean bill of health."<sup>145</sup> The generally favorable commentary provided regarding the Commission by the Department heads at the Committee's hearings was illustrated by the assessment of former Secretary of the Navy, Benjamin F. Tracy: "The persons appointed under this system are unquestionably more efficient, as a whole, than those selected under any system of pure patronage."<sup>146</sup>

The appointment of postmasters proved to be a recurring source of controversy. In 1919 a furor arose over a difference of opinion among members of the Commission and the Postmaster General with respect to implementing the examination system as mandated by Taft and extended by Wilson (see above). Both the House and the

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<sup>143</sup> Senate Report 659, 55th Cong., 2nd Sess. (March 9, 1898); and Senate Doc. 41, 55th Cong., 2nd Sess. (Jan. 5, 1898).

<sup>144</sup> Fish, p. 226.

<sup>145</sup> Van Riper, p. 146.

<sup>146</sup> Senate Report 659 (testimony given Feb. 3, 1898), p. 743.



Senate undertook investigations, but accorded to Van Riper, they "ended as political maneuvers directed at the Postmaster General and almost completely ignored the Commission." Further, the League, after studying the charges and countercharges, concluded at the 1920 annual meeting that the congressional committees involved were too political to allow a "clear judgment of the merits." <sup>147</sup>

Ten years later, in 1929, another investigation focusing on the appointment of postmasters was undertaken by a Subcommittee of the Senate Committee on Post Offices and Post Roads. Their Report was ordered printed on March 15, 1930. Authorized by several Senate resolutions, the Subcommittee was to investigate "the circumstances surrounding the choice of postmasters and any other persons appointed to Federal office" by conducting field interviews. A general survey of conditions in four States -- Georgia, Mississippi, South Carolina, and Texas -- was completed, with partial evidence collected from several other States. The Report described the continuation of patronage rings, political assessments, and other abuses at the State level, particularly with respect to the appointment of postmasters, and after surveying the evidence in the four States examined in depth, provided this short conclusion:

In conclusion, your committee believes that the practice of dispensing Federal appointments, as shown by this report and the evidence obtained in the investigation surrounding the barter and sale of Federal offices, should be abolished at once, and your committee condemns this practice as most reprehensible.

Your committee further recommends that the Department of Justice make a careful survey of the evidence obtained by your committee, and if the facts warrant, that they start proceedings against all persons who have violated the statute covering the barter and the sale of public office. . . . <sup>149</sup>

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<sup>147</sup> Van Riper, p. 273.

<sup>148</sup> Influencing Appointments to Postmasterships and other Federal Offices. Senate Report 272, 71st Cong., 2nd Sess. (March 15, 1930).

<sup>149</sup> Ibid., p. 40.

Also in the late 1920's, a Senate Select Committee on "Investigation of Illegal Appointments and Dismissals in the Civil Service since July 1, 1919," was created. The Select Committee held hearings, and was primarily concerned with the operations of State quotas under the apportionment requirement of the 1883 Act, veterans' preference regulations, and the like. The "illegal appointments" thus tended to result from violations of civil service procedural rules, as applied to individual cases, rather than to political manipulations of a deliberate sort. <sup>150</sup>

The McKinley roll-back in 1899 provided encouragement for Congressional critics of the merit system. As described by Van Riper:

Therefore, the Act providing for the census of 1900 was permitted to exclude 3,500 new positions from the merit system. The War Emergency Act called for close to 2,000 temporary appointments to be made outside the civil service rules. The rural free delivery system was, from 1897 to 1902, kept from the merit system by designating it as 'experimental'. <sup>151</sup>

This subsequently became the common tactic for legalizing the evasion of competitive requirements by the Congress, particularly after the revision of the Civil Service Rules by Roosevelt in 1903. As described in one source, written in 1939:

The most common anti-merit system legislation [following 1903] has been that specifically exempting new or old positions from the act of 1883. After the Classification Act of 1923 was passed, some positions were exempted from either the Act of 1883 or the Act of 1923, while others were exempted from both Acts. Such exemptions have been made by nearly all Congresses. <sup>152</sup>

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<sup>150</sup> See, for example: U. S. Congress. Senate. Appointments and Dismissals in the Civil Service. Hearings before Select Committee on Investigation of Illegal Appointments and Dismissals in the Civil Service, 70th Cong., 1st and 2nd Sess. Washington, U. S. Govt. Print. Off. [1929].

<sup>151</sup> Van Riper, p. 174.

<sup>152</sup> History of the Federal Civil Service, 1789-1939, p. 69.

As noted already, with the accession of Wilson in 1913, the Democrats were particularly anxious for patronage because the Republicans had been in control for sixteen years. Just as had been the case previously with the transfer of power to McKinley and the Republicans in 1897, the Democrats in 1913 initiated a bitter debate in the Congress concerning the civil service system. The various instances of blanketing-in by the previous Republic Administrations were subjected to the usual criticism of "perpetuating in office the previous Administration's political appointees." The Congress thereupon took steps to expand the patronage itself. For example, the Underwood Tariff Act of October 3, 1913 (38 Stat. 180), provided a two-year exception from the Civil Service Rules for positions in the Bureau of Internal Revenue, as created by this statute; after the initial period (when Democrats would presumably be favored in the appointment process), the 550 positions (and incumbents) would be converted to competitive status.

Congressional exemptions from, as well as occasional extensions of, the competitive service were often contained as a rider to an appropriations measure. One particularly notorious example of such Congressional exceptions was included in a bill passed on October 22, 1913 (38 Stat. 208). This provision excepted deputy collectors of internal revenue, who had previously been included in the competitive service. Hence, 1,145 deputy collectors were withdrawn from the merit system; the same act also excepted 176 deputy U. S. Marshalls.<sup>153</sup> Moreover, in order to bring a position under this exception, the collector (who was himself a political appointee) only needed to require a bond of the employee,

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<sup>153</sup> U. S. Civil Service Commission. Thirty-First Annual Report, for the fiscal year ending June 30, 1914. Washington, U. S. Govt. Print. Off. [1915] p. 7.

a loophole open to exploitation. As a Civil Service Commission document noted, "The custom has grown up of appointing large numbers of deputy collectors, excepted from all competitive requirements, although frequently their duties appear to be almost wholly of a clerical type, with little differentiation from the work performed by classified clerical employees in the same office." <sup>154</sup> Although several bills were introduced over the years to return the deputy collectors to the competitive service, the positions retained their excepted status until the 1940's.

Then in December of 1913 the Federal Reserve Act (38 Stat. 262), authorized the appointment of ". . . such attorneys, experts, assistants, clerks, or other employees" as necessary without regard to the Civil Service regulations. Due to the protests of merit system supporters, an amendment was attached stating: "Provided that nothing herein shall prevent the President from placing said employees in the classified service." This was approved despite "the efforts of those who pointed out that as long as appointments were to be made outside the merit system the amendment only served to protect political employees. . . ." <sup>155</sup>

These exceptions during 1913 constituted a relatively small percentage of the total, reducing "the scope of the classified service less than one percent. However, these actions are important because they were cited as precedents for the more sweeping exceptions of 1933 and 1934," <sup>156</sup> Congress made additional exceptions of groups of positions in the period prior to 1932. Among the most significant of these actions were exemptions of positions in the Federal

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<sup>154</sup> History of the Federal Civil Service, 1789-1939, p. 106.

<sup>155</sup> Hoover II Task Force Report, p. 174.

<sup>156</sup> Ibid., p.

Farm Loan Board by Act of July 17, 1916 (29 Stat. 361) and positions of enforcement officials in the Bureau of Prohibition by Act of October 28, 1919 (41 Stat. 319). And regularly every ten years positions filled in connection with the taking of the census were excluded from the competitive service. This was an ideal mechanism for the continuation of the spoils, since "temporary" employees could be hired without going through the standard merit system procedures and since positions in connection with the census were widely distributed in the field outside of Washington. As Van Riper explained: "The exploitation of the decennial census staff for patronage purposes was especially flagrant, with spectacular statistical inaccuracies occasionally stemming from the efforts, or lack of them, of ill-trained enumerators. The census of 1890 has been reliably estimated as understating the population of New York City by as much as 200,000." <sup>157</sup>

Various extensions of the classified service were accomplished by Act of Congress. A perusal of the Annual Reports of the Civil Service Commission reveals examples such as the following, whereby employees were covered-in via the familiar rider to an appropriations bill: "The legislative appropriation act for 1909 had the effect of transferring 4 clerks and 9 additional members of the board of pension appeals, Interior Department, from the excepted to the competitive service." <sup>158</sup> Or, to cite another from many similar provisions, in 1910 "One employee in the Department of Justice and four under the Superintendent, United States Capital Building and Grounds, were brought within the competitive service by changes in the appropriations Acts." <sup>159</sup> Sometimes

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<sup>157</sup> Van Riper, p. 150. For a discussion of the census spoils in 1890, 1900, and 1910, see William Dudley Foulke. *Fighting the Spoilsmen*. New York, G. D. Putnam's Sons [1919] pp. 64-85.

<sup>158</sup> United States Civil Service Commission. *Twenty-Sixth Annual Report for the year ended June 30, 1909*. Washington, U.S. Govt. Print. Off. [1910] p.9.

<sup>159</sup> USCSC. *Twenty-Seventh Annual Report* [1911] p. 11.



the numbers involved were larger. For example, by Act of April 28, 1902, 850 temporary war emergency employees were transferred to the classified service.<sup>160</sup> Or for an early instance of creating new positions to be excepted from civil service law for an initial period and then incorporated into the classified service:

The denatured alcohol act provided that persons employed in connection with its enforcement should be appointed for a period of two years without reference to the requirements of the civil service act. The expiration on June 6, 1908, of this exception from examination had the effect of bringing 102 persons theretofore appointed, into the competitive class.<sup>161</sup>

The same procedure was to be followed with respect to employees in the Bureau of Internal Revenue, as discussed already.

A few of the extensions of coverage authorized by Congress were of considerable scope. For example, during fiscal year 1920, "Congress extended the provisions of the civil service act and rules to cover positions in three distinct branches of the municipal government of the District of Columbia; namely, the metropolitan police force, the fire department, and the rent commission."<sup>162</sup> The Rogers Act of 1924 (43 Stat. 140) placed all but the highest diplomatic positions in a career Foreign Service. According to Secretary of State Hughes, there were two objectives behind this legislation: "first, to establish a career of promotion which would make the service attractive to all brilliant young men, not just those of walthy families; and second, to set up a retirement system for the service, administered by the Department of State."<sup>163</sup> The new Foreign Service combined the old Diplomatic

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<sup>160</sup> USCSC. Twentieth Annual Report [1904] p. 99.

<sup>161</sup> USCSC. Twenty-Fifth Annual Report [1909] p. 8.

<sup>162</sup> USCSC. Thirty-Seventh Annual Report [1921] p. vii.

<sup>163</sup> History of the Federal Civil Service, 1789-1939, pp. 139-40.

and Consular Services and entry was at the lowest grade on the basis of competitive examinations. Although the merit system so set up was an independent entity, the difficult written exam has been donuted by the Civil Service Commission "as a courtesy to the State Department." 164

Still more significant perhaps was the classification of the positions in the reorganized Bureau of Prohibition in the Treasury Department by Act of Congress on March 3, 1927 (44 Stat. 1381). These employees had originally been exempted in 1919, and thereafter the National Civil Service Reform League had led a battle to get the exemption clause repealed. 165 Several bills had been introduced at the request of the League. As described by Stewart in his history of the League:

The classification of prohibition agents is a splendid example of successful propaganda. With a hostile Congress and an indifferent ally [the Anti-Saloon League], the League persistantly hammered upon the spoils evils in the Enforcement Bureau until the Anti-Saloon League changed its attitude and came to the support of the merit principle. The better part of the press backed the League's efforts, and Congress finally succumbed. 166

Aside from adding around 2,500 positions to the competitive service, the 1927 legislation represented an important advance for proponents of merit principles. Unlike previous extensions, the incumbents of the positions classified were not themselves blanketed-in; rather the incumbents were to compete with the general public and had to come out near the top in order to retain their positions. Some 19,000 formal applications were filed for the positions. 167

During the years from 1884-1932 the Congress approved various laws not directly relating to extension of the competitive service, but with definite

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164 Ibid., p. 140. The League had been concerned about placing these diplomatic positions under the merit system for many years; see Stewart, pp. 199-206.

165 Stewart, pp. 131-139.

166 Ibid., p. 139.

167 USCSC. Forty-fourth Annual Report [1928].

implications for the future of the merit system. Only a few of the most important measures can be briefly surveyed here. On August 24, 1912, the Lloyd-LaFollette Act (37 Stat. 555) was signed into law. "This basic legislation not only permitted employees to petition Congress and recognized their right to affiliate with national labor unions, but also included the protection of the original McKinley executive order concerning removals."<sup>168</sup> The provisions of this 1912 Act remain a major foundation for protective procedures surrounding removals; the key passage in section 6 provided: "That no person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service and reasons given in writing, and the person whose removal is sought shall have notice of same and of any charges preferred against him, and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing. . . ."

As noted previously, the lack of a pension system had led to serious problems of superannuation. On May 22, 1920, the first civil service retirement act was passed (41 Stat. 614). This legislation (subsequently amended in 1926 and 1930) provided for the payment of annuities to employees retiring after a specified period of service because of disability or upon reaching a compulsory retirement age which varied with occupation. Initially, the Commission shared responsibilities for the program, but in 1934 President Franklin Roosevelt transferred to the Commission complete administration of the Retirement Act.<sup>169</sup> "The immediate effect of the 1920 Retirement Act was that within 2 months over 5,000 aged employees, some of whom were more than 90 years old, were retired."<sup>170</sup> Another "milestone" in

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<sup>168</sup> Van Riper, p. 217.

<sup>169</sup> Van Riper, pp. 276-77. *History of the Federal Civil Service, 1789-1939*, pp. 124-128.

<sup>170</sup> *Biography of an Ideal*, p. 61.

reform was reached with the passage of the Classification Act of 1923 (42 Stat. 1488). The rationale behind such legislation was the principle of "equal pay for equal work". In brief, the Act "authorized the classification of positions in accordance with their duties and responsibilities, and assigned salaries to such positions."<sup>171</sup> Initially, the act applied only to positions located in Washington; the field service, constituting the vast majority of positions, was excluded.<sup>172</sup>

Another subject of legislation with serious implications for the merit system was the whole area of veterans preference. However desirable and appropriate was the objective to assist veterans in re-entering the civilian labor market, the effect of the special preferences accorded this group of course undermined the merit system in terms of the principle of equality of opportunity, by constituting indirect discrimination against nonveterans. The practice of granting veterans special consideration in appointments to the Federal service dated far back in American history:

Although individuals had claimed and received civil employment in the government as a reward for military service since before the Revolutionary War, the practice was not legalized until 1865, when Congress provided that persons who had been discharged from the armed forces for service-incurred disabilities should be given preference in appointment to civil offices for which they were properly qualified. The statute of 1876 allows preference for retention in cases of reduction of force to veterans, their widows, and orphans.<sup>173</sup>

The Pendleton Act incorporated the existing veterans preference provisions, but prior to the First World War the number of persons involved was relatively small. In 1919 the first full scale veterans preference regulations were enacted:

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<sup>171</sup> Ibid., p. 62.

<sup>172</sup> USCSC, Fortiety Annual Report [1923] p. x, records that as of June 30, 1923, there were 66,290 employees in the District of Columbia and 482,241 working outside of D. C.

<sup>173</sup> History of the FEderal Civil Service, 1789-1939, p. 118.

This time the veterans did not make the mistake of Civil War veterans who waited until memories were dim. They organized quickly and secured the swift enactment of several sweeping preferential provisions by Congress. The first was contained in a section of the census act of March 3, 1919, which granted preference in the Washington departments only. The second was a part of the deficiency act of July 11, 1919, and provided for preference generally throughout the classified service. Not only were honorably discharged veterans themselves included but also their widows and the wives of those too disabled to obtain government employment. 174

The National Civil Service Reform League was very critical of the veterans preference legislation. As Stewart noted, in the conclusion to his history of the group (published in 1929): "Direct attacks on the [merit] system are now rare; the spoilsmen are more cautious and more subtle. A particularly vicious form of attack under the guise of patriotism is that of veteran preference." 175

Finally, with regard to Congressional actions, mention should be made of the so-called "Plum Books", which originated within a decade after the passage of the Pendleton Act. In order to ascertain readily the distinctions between competitive and excepted (or in the early days, unclassified) positions, primarily for the benefit of those interested in remaining pockets of patronage,

. . . it became the custom during this period, after a change of administration from one party to another, for Congress to order the publication of lists of public offices in the form of what have since become known as 'Plum Books'. A ready index to the available jobs, their salaries, and tenure, these compilations were in great demand. 176

Among the earliest examples of such manuals were those which appeared in 1893 and 1897. 177 It has been observed that the Civil Service Commission, ordinarily

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174 Van Riper, p. 269.

175 Stewart, p. 257.

176 Van Riper, p. 151.

177 U. S. Congress. Senate. Civil List: Method of Appointment and Term and Tenure of Office, 52nd Cong., 2nd Sess., Senate Doc. 61 [1893]: and House, Table Showing the Number of Positions in the Executive Civil Service of the United States, Classified and Unclassified on June 30, 1896, 54th Cong., 2nd Sess., House Doc. 202 [1897].



being requested to prepare these documents, "has found itself functioning as a reluctant broker in what might be called the patronage 'exchange'." <sup>178</sup> As discussed in the next chapter, the most recent edition in this tradition just appeared in November of 1976.

#### IV. Conclusion

In the years after 1883, "From a legal point of view, the extension of the classified service to a majority of the federal public offices was primarily a presidential accomplishment." But, continued Van Riper, "The forces involved were complex and cannot be explained by simple reference to executive orders." <sup>179</sup> Still, the role of the President was central. White observed, the "task of Presidents was one of balance and compromise, recognizing both the needs of the public service and of party organization. No one could foretell from time to time which way the presidential balance would tip under the weight of contradictory impulses." <sup>180</sup>

In a general sense, most of the Presidents of this period recognized the inadequacies of patronage as a recruitment mechanism and disliked the continuing pressures of the office-seekers. The extension of the merit system was not directly related to political party affiliation. Of the two Presidents making the largest extensions -- Cleveland (during his second term), and Teddy Roosevelt -- one was a Democrat and one was a Republican. Of greater significance, perhaps, in influencing Presidential actions with respect to the merit system, were

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<sup>178</sup> Van Riper, p. 151.

<sup>179</sup> Ibid., pp. 131, 132.

<sup>180</sup> White. *The Republican Era*, p. 307.

considerations of practical politics -- how long his own party had been out of power, or, especially in a lameduck period, how long his own party would remain in power.

While there were certainly defenders of civil service reform in the White House (and in the Congress), the importance of a generally favorable public opinion in the nurturing and extending of the competitive system cannot be discounted. According to one source, "The passage of the civil service reform law is an excellent example of a reform forced on politicians against their will by the pressure of public opinion aroused by a few earnest advocates."<sup>181</sup> As surveyed above, for some years after 1883 there was lingering resistance to the very existence of the merit system. However, with respect to the situation in the latter half of the Nineteenth Century, even when the Congress seemed disposed to take its "annual fling at the merit system," during the appropriations debate, "... public opinion was still powerful enough. . . to frustrate any major attacks upon the developing movement."<sup>182</sup>

The major nongovernmental group promoting civil service reform and extension of the competitive system was the National Civil Service Reform League. This organization retained to a considerable extent its reputation of impartial critic and expert adviser with respect to the merit system. In reference to roughly the same period of time reviewed in this chapter, one observer has contended that "whatever progress has been made since 1883 in the extension and improvement of the merit system has been largely due to the strategy and efforts of the League,"<sup>183</sup>

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<sup>181</sup> Cited by Stewart, p. 34.

<sup>182</sup> Van Riper, p. 132.

<sup>183</sup> Stewart, p. 71.

Using the various methods employed by voluntary interest groups the League sought to mould public opinion and to influence Federal officials (especially the Presidents, Members of Congress, and the Civil Service Commissioners). The League also carried out its own independent investigations and published its findings. For example, in December of 1889 the League appointed an investigating committee to report on the condition of the Civil Service under President Harrison, which resulted in the issuance of six reports, one of which dealt with Congressional patronage. As described by Foulke, who served as chairman of the committee:

Our first inquiries were addressed to Republican members of the House of Representatives asking for the number of offices in which the appointments depended upon them; the number of applications received during the last year and the amount of time and correspondence required. From the answers received it appeared that about 250 appointments depended upon each of the Congressmen and that the average number of applications to each was about 1700; that the correspondence involved in this office brokerage was enormous and that more than one third of their entire time was devoted to it. <sup>184</sup>

Another example of a League investigation occurred in the 1920's and had as its focus the state of the Post Offices:

For reports of the special Committee on Appointments of First, Second, and Third Class Postmasters were issued, and published together in 1922. These reports were based on investigation of appointments in twenty states in all parts of the country in which the appointments had been completed from May 10, 1921, to January 17, 1922. In the first report issued on April 19, 1922, the general situation regarding the administration of President Wilson's order of March 31, 1917, and President Harding's order of May 10, 1921, was reviewed, and the fear of the League that evil results would follow from the new order of President Harding was recalled. . . . <sup>185</sup>

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<sup>184</sup> Foulke, pp. 57, 58.

<sup>185</sup> Stewart, p. 123.

A somewhat differently constituted group, concerned with civil service reform as a part of a broader interest in public personnel management, emerged as a result of a conference held in Washington in 1906, attended by Civil Service Commissioners from various States and locales. Known originally as the Civil Service Assembly, the group changed its name to the Public Personnel Association from 1956 to 1972, and since then has been known as the International Personnel Management Association. <sup>186</sup>

There were also pressures from economic groups -- agriculture, labor, commerce, and industry -- who supported civil service reform more for pragmatic, rather than for intrinsic, reasons. As Government regulation expanded, "these great pressure groups became increasingly insistent upon regulation by competent personnel divorced from the worst ravages of partisan politics. . . . The device of the merit system, with its emphasis on expertise and its connotations of political neutrality was eminently suited to some of the newer tasks of government," <sup>187</sup>

Prior to the passage of the Pendleton Act and in the years immediately following, the League was primarily concerned with the purification of politics by eliminating the corruption associated with the spoils system. But as time passed emphasis shifted from morality to the issue of efficiency in the civil service. For example, "in 1915 President Dana, in his address at the annual meeting, emphasized the fact that the League believed the scope of the merit system should be extended to cover the whole subject of efficiency in government service." <sup>188</sup> Van Riper made the same point, when commenting upon the situation in 1913:

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<sup>186</sup> Biography of an Ideal, p. 56.

<sup>187</sup> Van Riper, p. 133.

<sup>188</sup> Stewart, p. 84.

But now the civil service reform no longer occupied the center of the stage. Relevant to the larger issue -- year -- and easily associated with it, the merit system found itself relegated to the role of merely one of a numerous cast of characters and was forced to give up its place as hero of the political drama. The new contribution of civil service reform was to lie in its relationship to economy and efficiency, to democratic machine-tinkering, and to political and administrative reorganization, the basis of our second phase of effective political renovation after the Civil War. <sup>189</sup>

During the period from 1884 to 1932 over eighty percent of the Federal civilian workforce came to be covered under the merit system. In addition to the extension of recruitment based on competitive performance to ever more positions, other merit principles were also evolving. The provisions of the Pendleton Act itself, fortified by subsequent Executive Orders, went a considerable way toward guaranteeing a politically neutral workforce, or at least one relatively free from compulsory assessments and partisan political activities at the State or national level on the part of Federal employees subject to the Civil Service Rules. However, periodic investigations on the part of the League and Congressional committees revealed that patronage abuses had far from disappeared, although most of the scandals occurred outside the competitive service (especially with regard to Postmasters). With the passage of the Lloyd-LaFollette Act, to supplement and strengthen existing Executive Orders, security of tenure was increased, as fundamental removal protections were given statutory authority.

Stewart, writing in 1929, offered this perspective by way of conclusion:

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<sup>189</sup> Van Riper, p. 226.



In the history of the civil service the first accomplishment was the gradual development from the spoils idea to the merit system. Today late 1920's , we have been advancing for some time from the idea of the merit system as a negative, formal, mechanical system of competitive examinations designed to keep the rascals out, to a positive, constructive plan of employment management designed to make the public service a career for trained and competent persons. In a word, civil service reform is being gradually transformed into public personnel administration. 190

The next chapter provides an examination of various events accompanying this transition into the contemporary period of positive personnel administration and the effects of these developments on the evolution of merit principles in the Federal civil service.

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Stewart, p. 260.



## CHAPTER 6.—FROM CIVIL SERVICE REFORM TO POSITIVE PERSONNEL ADMINISTRATION, 1933 TO THE PRESENT

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Yet it is significant that those who have worked to improve the Federal civil service, whether under the earlier name of civil service reform, or the modern term of better public personnel administration, have used the same name for their goal—the merit system. . . . The merit system is not perfected, nor will it ever be, any more than any of our other democratic institutions.<sup>1</sup>

Most students of American public administration date the emergence of the modern era from the midthirties, with the second term of President Franklin Roosevelt. In "Biography of an Ideal," it is explained, "From 1883 to 1938 the central theme was the firm establishment, extension, and success of the merit principle in Federal employment." The contemporary challenge then became "... whether a system conceived for an essentially negative purpose, that is, the control of patronage and corruption in appointment to public office, could be adapted to modern needs, discoveries, and requirements in personnel management."<sup>2</sup>

The coverage of the competitive system as administered by the Civil Service Commission has undergone considerable fluctuation during this period: From over 80 percent in 1932 to a low of 60.5 percent in 1936, back to a high of 87.5 percent in 1951, and ending at 61.2 percent in 1975—the decrease from the fifties being due mainly to the establishment of an independent Postal Service with its own separate merit system. Moreover, as will be detailed subsequently, the merit system expanded in breadth as well as in scope in recent year.

This period from 1933 to the present is perhaps a time more familiar to the typical layperson than the epochs previously surveyed in this study, as the episodes of past history merge into contemporary events. Consequently, the following discussion is somewhat more abbreviated than the previous portrayals, although the intent is to touch upon all the various events of direct relevance to the evolution of the merit system. After a background section, focusing briefly on the development of positive personnel administration and the role of the Commission, the format for this chapter follows a chronological pattern. The final section provides not only a conclusion to this period, but to the entire subject of the evolution of the merit system.

### BACKGROUND

In the 1930's there was rapid expansion in the Federal service, as Government came to assume new functions in an attempt to cope with

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<sup>1</sup> U.S. Civil Service Commission. *History of the Federal Civil Service, 1789-1939*. Typed Report [1939].160.

<sup>2</sup> U.S. Civil Service Commission. *Biography of an Ideal*, Washington, U.S. Government Printing Office [1973], 67.

the Depression. This growth strained existing governmental mechanisms, and elicited efforts within the executive branch to overhaul the administrative machinery. In this process the personnel function came to be viewed as an integral part of Executive management, epitomized by Executive Order 7916 in 1938, which, among other things, provided for the establishment of Divisions of Personnel Supervision in the 10 Cabinet Departments, as well as in 13 of the independent agencies.

On the one hand, the Civil Service Commission was evolving into the central personnel agency for the Federal Government. The transition from primarily serving as policeman to administrative leader of the Government personnel network was accompanied by a growing list of expanded functions for the Commission. By the midfifties—

\* \* \* (i)n addition to its historical responsibilities in examining, the Commission now had responsibilities under the Hatch Acts (1939 and 1940), and the Veterans Preference Act (1944); as well as for position classification in both the departmental and field service (the Classification Act of 1949). It had responsibilities for Performance Rating (1950), for Incentive Awards (1954), and for the Group Life Insurance Act (1954), not to mention a number of other statutes, or a host of important responsibilities under Executive order (such as in the area of employee suitability and loyalty).<sup>3</sup>

And the period from 1958 on into the seventies continued the trend: "Never before had there been such a concentration of major legislative measures on personnel, nor so many that broke new ground." Just to mention a few of the most outstanding examples, there were the Government Employees Training Act of 1958, the Federal Employees Health Benefits Act of 1959, the Federal Salary Reform Act of 1962, the Federal Pay Comparability Act of 1970, and the Intergovernmental Personnel Act of 1970.<sup>4</sup>

In 1953 there was a general reorganization of the Civil Service Commission:

The reorganization took cognizance of changes in the Commission's functions which had been gradually taking place for years. The Commission, looking toward improvement in the Federal personnel program, had been developing steadily in the direction of research, planning, and leadership. It had moved toward delegating certain responsibilities to agencies and guiding them by the establishment of standards, issuance of regulations, inspection of agency personnel actions, taking corrective action when necessary, and generally giving advice and assistance.<sup>5</sup>

So while the Commission, in many respects, was becoming a central personnel office, it increasingly delegated responsibility for details—examinations, classifications, promotions, and the like—to the other agencies. Along with the trend of expanding functions for the Commission, therefore, came that of decentralization, the implications of which must not be underestimated: "In many respects, the most significant development in Federal personnel administration since 1933 has been the decentralization of personnel powers from the Commission and the accompanying revolution in that agency's role and operations. Much of this development was the product of necessities of speed and scale rather than design."<sup>6</sup> The establishment of the Department

<sup>3</sup> U.S. Civil Service Commission, *The Responsibilities of the U.S. Civil Service Commission—Conflict or Compatibility*. Mimeo. Report [1975], p. 16.

<sup>4</sup> *Biography of an Ideal*, pp. 97-100.

<sup>5</sup> *Ibid.*, p. 87.

<sup>6</sup> Mosher, Frederick, *Features and Problems of the Federal Civil Service*, American Assembly, *The Federal Government Service*, Englewood Cliffs, N.J., Prentice Hall [1965], p. 173.



Personnel Divisions facilitated this development, the demands of World War II necessitated an acceleration of it, and the Report of the First Hoover Commission—1949—hailed the principle of decentralization in personnel management as a positive good.

Not surprisingly, the combination of these various factors such as assignment of new function and decentralization of previously held responsibilities, along with the sheer increase in size of the Federal service, heightened the "identity crisis" of the Civil Service Commission, which had been present to some extent since 1883. "The bipartisan nature of the Commission and its role as the public protector of the merit system were to give it an aloofness from the other Federal agencies, and even from the Chief Executive, that caused public administration students to engage in continuing debate over its role—whether it was an independent agency primarily reporting to Congress or an arm of the President."<sup>7</sup>

As a result, in recent years, the status of the merit system has become embroiled in the broader controversy over the future of the Civil Service Commission, and the possible incompatibility of its respective roles—enforcement as contrasted with personnel program responsibilities. Moreover, institutional rivalries become involved with respect to alternative images of the Commission as a Presidential staff agency versus a relatively independent watchdog agency reporting primarily to the Congress. Here it should be noted that congressional committees have come to employ various devices in an effort to increase their own leverage in personnel policy fields: one such device has been to spell out detailed administrative and personnel procedures by law. And as a passage from a book published in the midsixties noted: "In recent years some 20 to 25 civil service laws have been enacted annually. There are now more than 1,500 separate statutes affecting personnel, most of them enacted after 1930."<sup>8</sup>

A consideration of the full ramifications of this continuing controversy regarding the roles of the Commission, its relationship to the executive branch, and to the Congress, respectively, and the possibility of separating functions currently assigned to it into different units, clearly lies beyond the scope of the study. Certain aspects of the debate will be touched upon in the historical survey focusing on the evolution of merit principles in the sections which follow. But one final issue of particular relevance in light of recent discussion is examined as a background factor here in order to provide continuity of discussion—the issue of advising the President on personnel matters.

Although the recommendations of the Brownlow Commission with respect to replacing the three-member Civil Service Commission with a single Civil Service Administrator were not accepted, President Franklin Roosevelt improvised a partial implementation of the idea. One component of reorganization plan I of 1939, which was accepted by Congress, authorized the President to appoint a number of Administrative Assistants to the White House Staff. Employing this authority, President Roosevelt via Executive Order No. 8248 of September 8, 1939, created an Administrative Assistant position called the Liaison Officer for Personnel Management, who headed a Liaison Of-

<sup>7</sup> Harvey, Donald R. *The Civil Service Commission*. New York, Praeger [1970], pp. 8-9.

<sup>8</sup> Somers, Herman Miles. *The President, the Congress, and the Federal Government Service*. American Assembly. *The Federal Government Service*, p. 83. Federal personnel laws were subsequently codified in title V, as described below.



fice for Personnel Management within the Executive Office of the President. The functions of this aide—according to the Executive order—were:

(a) To assist the President in the better execution of the duties imposed upon him by the Provisions of the Constitution and the laws with respect to personnel management, especially the Civil Service Act of 1883, as amended, and the rules promulgated by the President under authority of that act.

(b) To assist the President in maintaining closer contact with all agencies dealing with personnel matters insofar as they affect or tend to determine the personnel management policies of the executive branch of the Government.

Roosevelt subsequently appointed William H. McReynolds, a long-time civil servant, to the Liaison Officer position. According to a report prepared by the Civil Service Commission, McReynolds continued in the role until 1945, but the already diffuse role of the Liaison Officer was—

\*\*\* shadowed during the years of World War II by the war-time responsibilities of Civil Service Commissioner Arthur S. Fleming. The Commission, with the President's approval, delegated to Commissioner Fleming (the minority party member of the Commission) the responsibility for its war programs activities. Although Mr. McReynolds continued to serve as Liaison Officer, Mr. Fleming operated as the recognized spokesman on personnel policy during the war period.

Mr. McReynolds was succeeded by George J. Schoeneman in 1945, and he, in turn, by Raymond Zimmerman. In 1949 Donald Dawson became Liaison Officer and during the latter part of his tenure handled both White House patronage functions and liaison responsibilities. Prior to the 1952 national elections, Mr. Dawson's name became implicated in scandals alleging acceptance of gifts and sale of public office and the position was under fire when it was abolished by President Eisenhower.<sup>9</sup>

One source has characterized this Liaison Office for Personnel Management as "a makeshift arrangement," and as "a token of President Roosevelt's unsuccessful attempt to obtain a bona fide office of personnel management."<sup>10</sup> On May 1, 1953, in accordance with a recommendation of the First Hoover Commission (1949), President Eisenhower abolished the Liaison Office by means of Executive Order No. 10452 and provided that, henceforth, the Chairman of the Civil Service Commission would serve concurrently as Presidential Adviser on Personnel Management. Philip Young was appointed to carry out these dual functions, which he did until 1957 when he resigned to accept an ambassadorship.

For a short time thereafter his successor as Chairman, Harris Ellsworth, served in the dual roles. However, the arrangement had come under indirect criticism when schedule C (the new category of excepted positions) was established, and Young was attacked more directly, at the time of the disclosures, in 1954, of the so-called "Willis Plan" (as described below). Moreover, the Task Force on Personnel of the Second Hoover Commission (1955) recommended abandonment of the presidential adviser-Civil Service Commission Chairman combination. In light of these various considerations, President Eisenhower, on September 16, 1957, revoked the previous order establishing the dual positions and with Executive Order No. 10729 reverted to the procedure of designating a Special Assistant to the President for Personnel Management. Shortly thereafter, Rocco Siciliano was appointed to the position of Special Assistant and served "on a full-

<sup>9</sup> The Responsibilities of the U.S. Civil Service Commission, p. 14.

<sup>10</sup> Somers, p. 90.

time basis and with high visibility for more than 2 years until December 1959, when he was succeeded in the position by Eugene Lyons, who served until the end of the Eisenhower administration.”<sup>11</sup> With respect to the various political relationships during the Eisenhower years, Kaufman has observed—

In 1957, the relations between the President and the chairman of the Civil Service Commission (tightened in 1953 when President Eisenhower brought his chairman into the White House circle) were loosened again and restored to pre-1953 separatism when a new post of Special (Presidential) Assistant for Personnel Management, divorced from the Commission, was created.<sup>12</sup>

President John Kennedy appointed John F. Macy, Jr., an energetic “new frontiersman” type, as Chairman of the Commission, leaving the position of Special Assistant unfilled. Macy, who continued as Chairman under President Johnson, “operated in close proximity to both Presidents. No Executive order was issued—no special title assigned, and no specific designation made. Chairman Macy simply functioned in a de facto way as untitled adviser and spokesman on personnel matters.”<sup>13</sup> According to another account, “\* \* \* it was clear from the beginning [of Macy’s tenure] that—although the arrangement was less formal than it had been in the first Eisenhower Administration—the Chairman of the Commission was to play an expanded role.”<sup>14</sup> The position of Special Assistant, which had been dormant for several years, was formally abolished by President Lyndon Johnson’s Executive Order 11205 of March 15, 1965. Meanwhile, following the 1964 elections, President Johnson had designated Macy as his Personnel Appointments Officer in the White House, concurrent with his chairmanship of the Commission. According to the Commission document referred to previously:

With Mr. Macy’s reputation for personal integrity and the distinction he rigorously maintained in keeping the two functions separate, little congressional or other reaction was evident at the time.

The current Commission Chairman, Robert E. Hampton, is also recognized as the principal adviser and spokesman de facto in Federal personnel management, again with no special designation or title other than his Commission Chairmanship, but performs no functions not clearly within the scope of his responsibilities as Civil Service Commission Chairman. The Chairmanship of the Commission now involved a number of duties in behalf of the Chief Executive that were not present in the position when Philip Young was named Presidential Adviser. They include such tasks as functioning as the President’s Agent on Federal pay (together with the Director of OMB) and serving on the Federal Labor Relations Council, that have been formalized on the record, and are carried out in full public view.<sup>15</sup>

The 1976 report of the House Post Office and Civil Service Committee, relating the findings of their investigation into certain matters occurring during Hampton’s Chairmanship and informal advisory role, provides an alternative perspective.

### 1933–40

When Franklin Roosevelt assumed the Presidency in 1933, the merit system faced a dual threat. There was the familiar problem of patron-

<sup>11</sup> The Responsibilities of the U.S. Civil Service Commission, p. 14.

<sup>12</sup> Kaufman, Herbert. The Growth of the Federal Personnel System. American Assembly. The Federal Service, p. 56.

<sup>13</sup> The responsibilities of the U.S. Civil Service Commission, p. 14.

<sup>14</sup> Harvey, p. 28.

<sup>15</sup> The Responsibilities of the U.S. Civil Service Commission, pp. 14–15.



age pressures accompanying the transition of Executive power from one party to the other (the Republicans had controlled the White House for the preceding 12 years). In addition, there was the challenge of a worsening economic depression, and the need for speedy and decisive action. As described by Van Riper:

The public service had always felt the impact of a change in party control; and under F.D.R. and the unprecedented problems of the thirties, all things, including the offices, were subordinated to the politics of profound social change. Fortunately for those in the competitive service in 1933, enough new offices were created to forestall a patronage raid of the McKinley variety, but civil service reform was shelved for nearly five years.<sup>17</sup>

What ensued was a short-term resurgence of the spoils system.

In an effort to deal with the economic situation, many new Federal agencies were established to perform expanded or newly undertaken Government functions such as public relief, public works, agricultural, financial, and industrial aid, and conservation. More significant, from the perspective of the merit system, positions in most of these so-called "alphabet agencies" were exempted from the Civil Service rules:

By the end of 1934 Congress had exempted from merit system regulations the personnel of almost sixty new agencies, totaling approximately 100,000 offices, and had placed only five agencies under the jurisdiction of the Civil Service Commission. The result was a public service in which the proportion of offices under the merit system rapidly declined from its previous peak of around 80 percent under President Hoover. By 1936 only about 60 percent of a total federal public service of more than 800,000 was on the classified list.<sup>18</sup>

Various defenses were advanced for these numerous exceptions to the merit system. As described in one source:

The stated rationale behind the wholesale exemptions was that most of the agencies were established to function immediately and for only specific periods of time. They were, in effect, temporary agencies. It was argued that the Civil Service Commission with its huge backlog of work could not fill for months positions which had to function immediately. It was also considered inadvisable to accord to a large temporary work force the permanent rights of Federal civil service employees. But, clearly, another major consideration was the alleged right of the party in power to a pool of patronage jobs.<sup>19</sup>

Emphasizing the political considerations involved, another writer has suggested that by supporting the increasing number of exceptions, Roosevelt was able "to kill two birds with one stone":

He put into effect all the programs and projects he considered vital for the welfare of the country. And he excepted the positions in these agencies from the classified service, thus enabling him to fill many of the patronage demands threatening the merit system. Under enormous pressure, with no other outlet, the President might otherwise have been compelled to strip competitive examination protection from a great many jobs previously covered. As it was, he was able to forestall an attack on the established classified service by manning the emergency organizations with a new, parallel bureaucracy.<sup>20</sup>

The "chief dispenser" of the patronage was Postmaster General James Farley, who, with the assistance of others, established a political

<sup>17</sup> Van Riper, Paul P., *History of the United States Civil Service*. Evanston, Ill., Row, Peterson & Co. (1958), p. 544.

<sup>18</sup> *Ibid.*, p. 320.

<sup>19</sup> U.S. Commission on Organization of the Executive Branch of the Government; Task Force on Personnel and Civil Service; Report on Personnel and Civil Service. Washington, U.S. Government Printing Office (1955), p. 176. This document is hereafter referred to as Hoover II Task Force Report. Also see, Wann, A. J., *The President as Chief Administrator*. Washington, D.C., Public Affairs Press (1968), pp. 26-27.

<sup>20</sup> Kaufman, p. 47.

clearance system for appointments to public office; there was also the semiofficial political employment agency managed by Emil Hurja. However, the system was offset by the relative ease with which a political clearance might be obtained and by the ultimate decentralization in recruitment.<sup>21</sup>

In this period special preferences were also enacted, which tended to thwart equality of opportunity. The most notorious of these was section 213 of the Economy Act of June 30, 1932, which stipulated that employees whose spouses were also in the service of the Federal or District of Columbia Governments were to be dismissed first in reductions in force and were to be considered behind all other eligibles. Since pensions and military enlistment came under the definition, the provision tended to operate mainly against lower grade employees and created personal hardship in many cases. However—

On July 26, 1937, the Civil Service Act was amended to forbid discrimination on the ground of marital status. The amendment repealed "Section 213," which had proved to be difficult and expensive to administer, besides requiring considerations other than ability and fitness in the selection and retention of public employees.<sup>22</sup>

During Roosevelt's first term, exceptions were not confined to the new emergency agencies; some employees in permanent agencies were even exempted. For example, in June of 1934, a supplementary appropriations bill was introduced to enable the General Accounting Office to hire additional persons to examine and audit the accounts of the newly created emergency agencies:

This bill contained the provision that such personnel might be appointed without regard to Civil Service Rules, and consequently it reopened the controversy regarding exceptions from the civil service system. The few supporters of the merit system pointed out that this marked a further step away from the merit system because these positions were located in a permanent agency. However, the temper of the majority of the Congress was not such as to provide for the merit system of appointment to what appeared to be temporary positions. A compromise was finally arranged and the provision as contained in the act (48 Stat. 1926) enabled the General Accounting Office to appoint such personnel without regard to Civil Service Rules for a period not to exceed 6 months.<sup>23</sup>

There were other scattered protests in Congress to the exceptions. For example, the defenders of the merit system in the 73d Congress protested on the floor of the House the provision to exempt employees from the civil service system which was included in the Agricultural Adjustment Act, but to no avail. There were also unsuccessful objections in June of 1935 to the provision of the National Archives Act [48 Stat. 1122], excepting appointments in that new agency.<sup>24</sup>

One of the newly created agencies, the Tennessee Valley Authority, was established with an independent merit system. One section of the act of May 18, 1933 [48 Stat. 58], exempted TVA from adherence to Civil Service rules, but further provided:

In the appointment of officials and in the selection of employees for said corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotion shall be given and made on the basis of merit and efficiency.

And Congress did place one new agency—the Social Security Board—under Civil Service rules in 1935 [49 Stat. 620]. This constituted

<sup>21</sup> Van Riper, pp. 317–320.

<sup>22</sup> *History of the Federal Civil Service, 1789–1939.*

<sup>23</sup> Hoover II Task Force Report, p. 177.

<sup>24</sup> Hoover II Task Force Report, pp. 176–177.



the largest agency ever placed under the merit system from its inception.

During Roosevelt's first term some extensions of the classified service were also accomplished by statute; an act of April 27, 1935, covered in over 10,000 employees of the Soil Conservation Service, and the following year, by act of June 29, 1936, close to 900 employees of the Maritime Commission were added.<sup>25</sup> During this time further extensions were brought about via blanketing-in authorized by the following Executive orders:<sup>26</sup>

Executive Orders 5817, March 10, 1932, Bureau of Foreign and Domestic Commerce (192); 5859, June 21, 1932, Treasury (191); 6134, May 18, 1933, Farm Credit Administration (969); 6758, June 29, 1934, Farm Credit Administration (1,660); 7195, Sept. 26, 1935 (as amended by E.O. 7223, Nov. 9, 1935), Civilian Conservation Corps (809); and 7458, Sept. 26, 1936, Rural Electrification Administration (288).

By far the largest Presidential extension was the coverage of the Farm Credit Administration. However, taken together, the various extensions accomplished via statute and Executive order appeared rather meager in light of the rapid proliferation of excepted positions.

Meanwhile, the revival of patronage practices elicited considerable public protest. As one account, written in 1939, observed:

It is a curious fact that while the number of positions excepted from civil service laws was increasing from 111,070 in 1932 to the high point of 308,591 in 1937, public interest in the extension and improvement of the merit system was increasing to a point unequaled since the days of the popular movement that brought into existence the Civil Service Act of 1883.<sup>27</sup>

The National Civil Service Reform League continued in its customary activities, making every effort to preserve the merit system. And in 1934 the National League of Women Voters, under the slogan "Better Government Personnel,"<sup>28</sup> launched a 2-year examination of the civil service. Results of a Gallup poll in March of 1936 suggested by a margin of 88 to 12 percent,<sup>29</sup> that public opinion strongly favored the merit system as compared with the spoils practice of recruitment based on political service.

In the election of 1936 both party platforms supported extension of the merit system, and the matter became a relatively major campaign issue. As Van Riper has related: "Roosevelt, realizing his vulnerability on this issue, replied with a precedent-breaking Executive order on July 6, 1936, requiring all unclassified employees who thereafter might be placed within the classified service to pass at least a non-competitive examination."<sup>30</sup> Previously, the usual practice as described earlier, had been to blanket-in the incumbent along with the position. While this Executive order had little immediate impact, it was of considerable long run significance.

Prior to the election, on March 20, 1936, the President appointed a three-member Committee on Administrative Management—known as the Brownlow committee—which, assisted by a staff of experts, de-

<sup>25</sup> Report of the Commission on Organization of the Executive Branch of the Government (1955), p. 7.

<sup>26</sup> *Ibid.*

<sup>27</sup> History of the Federal Civil Service, 1789–1939, p. 147.

<sup>28</sup> Van Riper, p. 334.

<sup>29</sup> Cited *Ibid.*, p. 132. The specific question was worded as follows: "Should government positions, except those which have to do with important matters of policy, be given to (1) those who help to put their political party in office, or (2) those who receive the highest marks in Civil Service examinations?"

<sup>30</sup> Van Riper, p. 335.



vised a plan for full-scale reorganization of the executive branch, with special attention to the civil service. The committee's report was submitted to the President, and he in turn forwarded it to the Congress on January 12, 1937.<sup>31</sup> The report recommended the extension of the merit system "upward, outward, and downward," so as to include practically all nonpolicy determining positions:

Upward to include all permanent positions in the Government service except a very small number of a high executive and policy-forming character:

Outward to include permanent or continuing positions not now under civil service, whether located in new or emergency agencies or in the older departments; and

Downward to include skilled workmen and laborers in the regular Government service.<sup>32</sup>

In terms of structure for personnel management, the report recommended the establishment of a new Civil Service Administration, with a single head, to serve as the central personnel agency and to assume most of the functions of the Commission. In addition, a Civil Service Board, composed of seven distinguished citizens serving without salary, was to be created "to act as watchdog of the merit system and to represent the public interest. \* \* \*" Although the proposal for a new Administration and Board—presumably to replace the Civil Service Commission—was not accepted, many of the Brownlow recommendations, including those calling for the extension of the merit system, were subsequently put into effect by legislation and Executive orders.

Shortly after the Brownlow committee reported, several bills were introduced in Congress to provide for the extension of the merit system. For example, Representative Robert Ramspeck offered a bill that would have added to the competitive service many positions previously excepted by statute, and also would have required open competitive exams for the positions so covered-in—as had occurred with Bureau of Prohibition positions in 1927. However, the Ramspeck bill met with strong opposition in this Congress and was not reported out of committee. On the other hand, there was continued support for excepting additional positions from the merit system, as described in this passage:

In June 1937, the President of the Civil Service Commission wrote President Roosevelt calling to his attention the fact that, of the pending bills exempting from the merit system all but minor positions in the agencies involved, over 70 proposed complete exemption of all positions to be created under their authority. President Roosevelt reacted by forwarding copies of this letter to each of the Houses of Congress together with his personal statement urging that Congress put all but policy-forming positions under the merit system.<sup>33</sup>

The single noteworthy extension of the classified service during 1937 was accomplished via Executive Order 7732 of October 27, 1937, and involved 388 positions in the Housing Authority.<sup>34</sup>

In 1938 actions relevant to the expansion of the merit system were undertaken both by Congress and the President. The 1939 Appropriations Act for Independent Agencies (52 Stat. 421; May 23, 1938), contained a provision transferring the 293 positions in the National Archives to the competitive service. Further, "a number of positions

<sup>31</sup> U.S. President's Committee on Administrative Management Report, with Special Studies, Washington, U.S. Government Printing Office [1937].

<sup>32</sup> *Ibid.*, p. 7.

<sup>33</sup> Hoover II Task Force Report, p. 179.

<sup>34</sup> Hoover II Report, p. 7.

in five divisions of the Department of Justice were placed within the classified service by the Appropriations Act for that Department; the personnel of the new Wage and Hour Division of the Department of Labor and the positions created by the Railroad Unemployment Insurance Act were also placed within the classified service."<sup>35</sup> However, from time to time Congress continued to employ the technique of riders on the appropriations bills to make exceptions as well as extensions of the competitive service, as evidenced in the following excerpt from the Commission's annual report for fiscal year 1939:

Gratification over the expansion of the competitive classified service during the fiscal year, however, was dimmed toward its close by an extraordinary provision in the 1940 Appropriations Act for the Department of Justice, approved June 29, 1939, which directed "that none of the funds appropriated herein under the Federal Bureau of Investigation shall be used to pay the compensation of any civil service employee except fingerprint classifiers." In order to permit the large number of classified employees in the Bureau to be paid during the coming fiscal year, therefore, it was necessary for the President to issue an order on the same date placing all positions except fingerprint classifiers in the exempt class under schedule A, limited to the period beginning July 1, 1939, and ending June 30, 1940. *The Commission deplores the tendency to make exemptions of one kind or another in appropriation acts, thus undoing to some extent far-reaching improvements in public personnel administration and hindering further expansions of the competitive classified system.* [Emphasis added.]<sup>36</sup>

But by far the most important legislation of 1938, with respect to merit system extension, was the Ramspeck O'Mahoney Postmaster Act, signed June 25, 1938 (52 Stat. 1076). The law placed the first-, second-, and third-class postmaster positions—numbering close to 15,000—under a modified competitive system, which differed in some respects from the nationwide system of competitive examinations for other positions. Four-year terms were to be replaced by indefinite tenure. Incumbents were to take noncompetitive exams, and delivery-area-wide competitive exams were required for new appointments. While this represented an improvement in light of past practice in the post office,

\* \* \* the local residence requirement and the need for senatorial confirmation, which were untouched, left open several means by which political considerations might still enter into postal appointments. Purists criticized the Civil Service Commission for taking a positive part in supporting such legislation. But the new system did provide a means for the development of a partial career service in what has historically been the largest and most partisan of our governmental institutions.<sup>37</sup>

With respect to actions by President Roosevelt, Executive Order 7852 of March 29, 1938, covered in 194 positions in the Lighthouse Service. But of more overriding importance were Executive Orders 7915 and 7916 of June 24, 1938: Executive Order 7915 contained the first complete revision of the Civil Service Rules since 1903 and Executive Order 7916 provided for the extension of the competitive service almost as far as the President could go under existing law. Approximately 81,000 positions were to have been covered-in under Executive Order 7916, but two further actions mitigated against such inclusiveness prior to the effective date of February 1, 1939—as described shortly. In addition to authorizing the extension of merit

<sup>35</sup> History of the Federal Civil Service, 1789–1939, p. 150.

<sup>36</sup> U.S. Civil Service Commission, Fifty-Sixth Annual Report, for fiscal year ended June 30, 1939. Washington, U.S. Government Printing Office [1940] p. 60.

<sup>37</sup> Van Riper, pp. 337–38.



system coverage to all positions not specifically excepted by statute, or of a policy-determining nature, or possessing other special characteristics. Executive Order 7916 provided that existing schedules A and B were to be abolished and that all positions currently excepted by executive action were to be reviewed. It further provided for the establishment of personnel divisions in the various Departments, called upon the Commission to supervise and coordinate in-service training programs, and sought to revitalize the Interagency Council of Personnel Administration. According to a Commission account, the two Executive orders under discussion here were responsible for four basic accomplishments:

They strengthened the merit principle.

They gave support to positive personnel programs.

They enhanced the positive leadership of the Civil Service Commission.

They provided machinery, in the form of a personnel council and agency personnel divisions, for the President, the Commission, and agency heads to exercise leadership in personnel management.<sup>38</sup>

After the promulgation of Executive Order 7916, Roosevelt was pressured to make many specific exceptions for political reasons. On January 31, 1939, Roosevelt issued Executive Order 8044, which temporarily excluded from the civil service rules a number of the administrative and professional posts, pending completion of a study of the situation by the President's Committee on Civil Service Improvement—known as the Reed committee, after its chairman, Supreme Court Justice Stanley Reed. The Reed committee submitted its final report early in 1941:<sup>39</sup> as a result of its recommendations, all the offices temporarily excluded, aside from the attorneys positions, were placed under the merit system. Executive Order 8043, also issued on January 31, 1939, promulgated new schedules A and B; positions not restored in the new schedules were considered to have been brought under the classified service via Executive Order 7916.

Congressional action likewise reduced the scope of coverage from that initially provided in Executive Order 7916. An Appropriations Act of February 4, 1939 (53 Stat. 508), provided that Executive Order 7916 should not apply to positions paid from funds appropriated in the act or from the Emergency Appropriations Relief Act of 1938, and also prohibited payments from these funds to the incumbent of any position placed in the classified service after January 10, 1939. The events surrounding the consideration of this latter provision in the House have been described as follows:

Mr. Woodrum, Democrat of Virginia, speaking for the Appropriations Committee, explained that this language was inserted to prevent the 37,000 supervisory personnel in the Works Progress Administration from being added permanently to the personnel of the United States Government, since the committee considered this relief function to be only a temporary measure. Mr. Ramspeck of Georgia introduced an amendment to strike out this provision, pointing out that several thousand workers in other agencies would also be affected. He further contended that allowing these positions to become part of the civil service system would not make permanent employees out of the incumbents because, if their jobs or the agencies in which they worked were abolished, their rights to such jobs would be terminated. However, Mr. Ramspeck's amendment and another amendment which was designed to limit the positions affected to the 37,000 in the WPA were both defeated and the provision as contained in the act

<sup>38</sup> Biography of an Ideal, p. 69.

<sup>39</sup> U.S. President's Committee on Civil Service Improvement, Report. Washington, U.S. Government Printing Office [1941]. Published as House Doc. 118, 77th Cong., 1st sess.

applied to all positions the compensation for which came from emergency relief appropriations funds.<sup>40</sup>

This act of Congress reduced the coverage of Executive Order 7916 from 81,000 to about 22,000 positions.

Prior to these actions taken in early 1939, however, the Civil Service Commission, in its annual report covering fiscal year 1938, appeared to be somewhat defensive regarding allegations of political motivations underlying the large extensions. A passage in this report noted that incumbents in the affected positions would have to take examinations (under provision of the 1936 order and the new rules). Moreover:

These tests are not perfunctory as some critics assert. The order provides that all who fail to pass such tests, unless the appointing officer certified he wishes to retain them without civil-service status, must be separated from the service. \* \* \*

There have been some uninformed allegations that the inclusion of these 81,000 positions by the Executive order of June 24 will result in covering into the service a preponderance of appointees of the party in power. Among the positions affected are many to which the incumbents were appointed prior to 1933. It is agreed by practically all advocates of the merit system that the important consideration in extending the merit system is the placing of positions within the classified service rather than the question of how the untested incumbents were appointed. Without such extension, untested incumbents would continue to occupy the positions. Under the President's orders, those who cannot meet the real requirements of the positions—all those who are not qualified—will not acquire tenure; but the positions themselves when vacancies occur must be filled by the competitive method.<sup>41</sup>

The Commission's annual report for fiscal year 1939 noted certain delays in the classification of individuals to occupy the positions covered-in by Executive Order 7916—as modified by the early 1939 actions. As of June 30, 1939, of the 22,000 positions then involved, "only 406 cases were closed out and the employees certified as having met the requirements for and been granted a classified status." The report further described how, during the year, 589 cases had been processed in which the incumbents had been disapproved for competitive status in newly classified positions, the reasons being that:

\* \* \* 39 failed to report or abandoned the necessary examinations; 232 failed to pass the medical examination; 9 were not citizens; 255 attained ineligible ratings; 2 were ineligible because of the prohibition of more than 2 members of the family in the classified service; 12 because of unsuitability, such as arrest records, false statements, or immoral character; 40 because they did not meet other requirements for classification.<sup>42</sup>

As a reflection of the controversy, or at least confusion, apparently resulting from the noncompetitive examination procedure for classifying incumbents, the annual report for fiscal year 1940 contained an extended discussion titled "History of Classification Under the Civil Service Act."<sup>43</sup>

With respect to the political neutrality principle, in 1939 Congress passed the original Hatch Act (53 Stat. 1147). The Pendleton Act had contained provisions relating to political coercion of Federal employees and involuntary partisan activities, which had been interpreted, via civil service regulations and case law, and supplemented

<sup>40</sup> Hoover II Task Force Report, pp. 180-181.

<sup>41</sup> U. S. Civil Service Commission, Fifty-fifth Annual Report, for fiscal year ending June 30, 1938, Washington, U. S. Government Printing Office [1938], p. 3.

<sup>42</sup> Fifty-sixth Annual Report of the Civil Service Commission, pp. 58, 60.

<sup>43</sup> Fifty-seventh Annual Report of the Civil Service Commission, for fiscal year ended June 30, 1940, Washington, U. S. Government Printing Office, [1941] pp. 43-49.



by Executive orders such as those of 1907. However, there were various loopholes in the existing regulations—the Commission lacked direct enforcement powers, and the rules, for the most part, applied only to employees in the classified service. But in the 1930's, with the large increase in positions outside the merit system, around 40 percent of the executive workforce, or 340,000 Federal employees, were not protected by the political activity regulations. Many of these unclassified workers were in the programs funded through the Works Progress Administration (WPA). The real impetus for remedial legislation came from criticism of alleged abuses and political coercion of the relief workers by WPA supervisors. On June 16, 1938, the Senate approved a resolution directing the Special Senatorial Campaign Expenditures and Use of Government Funds Committee—known as the Sheppard committee, after its chairman, Senator Morris Sheppard—to investigate the alleged abuse of work-relief funds for political purposes. The Sheppard committee submitted its report in early 1939.<sup>44</sup> The findings substantiated the charges of political coercion associated with WPA supervisors in 10 States during the 1938 mid-term elections. As summarized by one source:

Committee investigators obtained affidavits from WPA workers indicating widespread solicitation of financial contributions from WPA workers by WPA supervisory personnel who were closely associated with local political organizations, affiliated, in most cases, with the National Democratic Party. Continued employment on WPA projects, as well as promotions and favorable work assignments, were often contingent, according to these affidavits, upon the purchase of tickets to various fund raising functions or direct financial contributions to local political party organizations.<sup>45</sup>

Congressional interest was further aroused by F. D. R.'s attempted manipulation of Presidential patronage in the "purge" of Congress in 1938 when, "irritated at a lack of legislative support for many of his proposals, the President had decided to work actively for the defeat of a number of recalcitrant Democrats during the mid-term elections. The patronage was again a principal weapon."<sup>46</sup>

The first Hatch Act (there have been several amendments) in 1939 most fundamentally applied the existing political activity restrictions to all positions in the executive branch, with the exception of top policy determining slots. Employees covered—unclassified as well as competitive service—were prohibited from using their "official authority or influence for the purpose of interfering with an election or affecting the results thereof," or taking "an active part in political management or in political campaigns." Further, the penalties for coercing any political activity or contribution from a Federal employee were increased, to include fines and even imprisonment. Disbursing officers were required to withhold wages of any public employee judged guilty of violating the anti-political activity role. In 1940, amendments to the act (54 Stat. 767) extended prohibitions against political activity to State and local employees involved in a program at least partially funded with Federal moneys.<sup>47</sup> Kaufman

<sup>44</sup> U.S. Congress. Senate. Special Committee to Investigate Senatorial Campaign Expenditures and Use of Governmental Funds in 1938. Report. Senate Rept. 1, 76th Cong., 1st sess. Washington, U.S. Government Printing Office, [1939].

<sup>45</sup> Rimensnyder, Nelson F., *Regulation of Political Activities of Federal Employees Prior to Enactment of the Hatch Political Activities Act (1939-40): A History of Policy*. U.S. Library of Congress, Congressional Research Service [multilith 73-57, Decemehr 29, 1972] p. 21.

<sup>46</sup> Van Riper, p. 340.

<sup>47</sup> The restrictions on State and local employees have been largely lifted by the Civil Service regulations promulgated pursuant to sec. 601 of the Federal Election Campaign Act Amendments of 1974.



has contended that the primary intent of the Hatch Act was "curbing the power of President Roosevelt. While the Civil Service Act sought to keep political workers out of the government service, the Hatch Acts operated to keep government workers out of the parties."<sup>48</sup>

Federal involvement with State personnel systems was augmented with the Social Security Act Amendments of 1939, which required States to place under a merit system all employees in departments receiving Federal grants-in-aid under this act; this involved unemployment security and public assistance programs. As described by Van Riper:

After considerable consultation with state and local officials, the Social Security Board formulated its "Standards for a Merit System of Personnel Administration." The State Technical Advisory Service was organized to assist the states in developing their merit systems and the eventual successor to this agency, the Division of State Merit Systems within the Department of Health, Education, and Welfare, has provided the federal government with nearly the equivalent of 'another Civil Service Commission' with a nation-wide impact.<sup>49</sup>

1941-52

In 1939, Congressman Ramspeck again introduced a bill to extend the classified service to many positions previously exempted by statute. Unlike earlier versions, the proposal called for noncompetitive standards to be met by incumbents in order to gain competitive status, but in other respects the bill was similar to previous ones. A variety of factors undoubtedly contributed to its ultimate approval. "Perhaps. . . most important . . . was the fact that the Democratic party had by now become thoroughly established in the agencies 'covered-in' by the Act."<sup>50</sup> The various arguments pro and con with respect to this proposal have been summarized as follows:

Opponents of this measure cited: (1) the violation of the merit system principle in the elimination from consideration of other, possibly better qualified, eligibles on the registers from which future appointments to these positions would be made; (2) the effect on the apportionment quotas; and (3) the fact that the large majority of the excepted appointments to positions which were not to be converted had been made by the Democratic administration and that most of the incumbents were, therefore, affiliated with the party in power.

Proponents of the measure stressed: (1) the desirability of including the positions in the civil service system; (2) the impracticality from the standpoint of economy and efficiency of attempting to fill these positions by any other means; and (3) the desirability of according the benefits and privileges of permanent status to this large group of employees in the excepted service who had been trained at Government expense and who had served capably and loyally for some time.<sup>51</sup>

The Ramspeck Act was signed into law on November 26, 1940 (54 Stat. 1211). As with the original Pendleton Act, this legislation authorized, not dictated, further extensions of the merit system by the President—to almost 200,000 positions previously exempted by statute. The only groups not eligible for inclusion under the act were employees of TVA and WPA, assistant district attorneys, and Presidential appointees confirmed by the Senate. Even unskilled laborers, excepted by the original 1883 law, might be brought under the merit system now.

<sup>48</sup> Kaufman, pp. 54-55.

<sup>49</sup> Van Riper, p. 343.

<sup>50</sup> *Ibid.*, p. 344.

<sup>51</sup> Hoover II Task Force Report, p. 181.

In addition to establishing the framework for future merit system extensions, the act contained important provisions relating to position-classification and efficiency ratings. According to one commentary on the Ramspeck Act, "Not only did this end the test of political loyalty as a factor in the filling of thousands of jobs, but it greatly extended the Commission's influence and challenged the Commission with unprecedented responsibility."<sup>52</sup> Through Executive Orders 8743 (April 23, 1941), 8744 (April 24, 1941), and 8833 (July 26, 1941), President Roosevelt extended coverage of the merit system to most of the positions allowable under the Ramspeck Act. As noted previously, incumbents were not automatically blanketed-in, but, rather, had to meet certain noncompetitive standards.

In the fall of 1939, the Second World War began. As the annual report for fiscal year 1943 observed: "Tremendous pressures have been brought to bear upon the Federal merit system by the need for civilian workers in Government war jobs." Between June 30, 1939, and June 30, 1943, "the number of Government workers soared from 920,000 to 3,156,953 (not including 250,145 persons serving at \$1 a year or without compensation.) Approximately 95 percent are in positions which are under the jurisdiction of the Civil Service Commission. . . ."<sup>53</sup> A crucial decision was made in 1940. The War Department communicated to the House Military Affairs Committee that there was a necessity of making emergency civilian appointments without reference to the Commission. During the hearing on the National Defense Act of 1940, Commissioner Arthur Fleming appeared before the committee. As he recounted at a later date:

We were told that we [the Commission] were bogged down with red tape; that we would slow up the defense program, and that it might be all right to fool around with us and our procedures and so forth in normal times, but in times such as confronted the Nation at that point, we just did not have any business trying to recruit personnel. . . .

I assured the Military Affairs Committee of the House of Representatives in response to those allegations: That we would see to it that our procedures did not get in the way of the expeditious handling of the defense program, that we would see to it that, if we could not solve a particular recruiting problem, and someone else felt that they could we would give them the opportunity to work on it, keeping in mind the fact that at all times we would pass on the qualifications of the person concerned. In other words, I assured the committee that if we could not recruit we would not stand in the way of a defense agency obtaining qualified personnel for themselves.<sup>54</sup>

With the addition of a floor amendment, the measure (54 Stat. 713), as passed kept the expansion mainly within the classified services. The Commission's annual report for the following year noted in the letter of transmittal to the President:

We are deeply gratified by your establishment and maintenance of the policy that civilian manning for national defense shall be accomplished within the framework of the merit system. This policy, supported by the Congress, has presented the Commission with both a challenge and an unprecedented opportunity, which we have accepted, to demonstrate that the Federal civil service system works effectively in a time of national stress.<sup>55</sup>

A series of Executive orders allowed for the necessary flexibility.

<sup>52</sup> Harvey, pp. 16, 17.

<sup>53</sup> U.S. Civil Service Commission, Sixtieth Annual Report, for fiscal year ended June 30, 1943. Washington, U.S. Government Printing Office (1943), p. 1.

<sup>54</sup> Cited by Van Riper, p. 367.

<sup>55</sup> U.S. Civil Service Commission, Fifty-eighth Annual Report, for fiscal year ended June 30, 1941. Washington, U.S. Government Printing Office [1941], p. iii.



Initial relaxation of competitive requirements came (at the Commission's request) via Executive Order 8257 of September 21, 1939, which was expanded by an order of October 8, 1940. However:

Even more basic changes in the civil service regulations were promulgated by the Commission under the authority of Executive Order 9063 of February 16, 1942. The order, which provided the legal authority for the War Service Regulations of March 16, 1942, required the "persons appointed solely by reason of any special procedures adopted under authority of this order to positions subject to provisions of the Civil Service Act and Rules shall not thereby acquire a classified [permanent] civil-service status, but, in the duration of the war and for six months thereafter."<sup>56</sup>

Concurrently, with these changes, the Commission delegated considerable authority over examining and the like to the agencies and field offices, thus inaugurating the trend of decentralization after years of struggling to establish a central personnel office. All things considered, the merit principles survived the war relatively in tact despite the compromises necessary during the emergency. As described in the annual report for fiscal year 1945:

The war-service regulations made civil-service requirements sufficiently flexible to meet war needs and yet preserved merit-system principles. Although qualification standards were lowered to a certain extent because of the dearth of well-qualified applicants, the standards maintained were higher than would have been possible had centrally controlled recruitment been abandoned. This was the first major emergency during which the Congress did not exempt large blocs of positions from civil-service requirements.<sup>57</sup>

With respect to legislation affecting the merit system passed during the war years, the Veterans' Preference Act of 1944 (58 Stat. 387) was the most significant. This act refined and consolidated into law certain benefits previously granted to veterans, either by law or regulation, and also added new benefits, some of which the effect of amending the Civil Service Act.<sup>58</sup> Among the most important of the innovations in the statute was the provision establishing the right of veterans to appeal to the Commission in removals and certain other types of adverse actions by the agency which hired them. Thus veterans not only received special advantages in terms of entering the service—for example, extra points added to their examination score—but also special treatment in adverse action situations, indirectly tending to make their tenure relatively more secure.

A notable extension of the competitive service during this period proved to be temporary. In accordance with the recommendations of the Reed committee, the majority of attorney positions were transferred to the classified service by Executive Order 8743 of April 23, 1941. A special Board of Legal Examiners was created by Executive Order 9230 of August 20, 1942, which stipulated: "It shall be the duty of the Board to promote the development of a merit system for the recruitment, selection, appointment, promotion, and transfer of attorneys in the classified service. . . ." However, "Due to pressure from various groups including the attorneys themselves, Congress first abolished the board of legal examiners and finally, in 1945, forbade the

<sup>56</sup> Van Riper, p. 370.

<sup>57</sup> U.S. Civil Service Commission. Sixty-second Annual Report, for fiscal year ended June 30, 1945. Washington, U.S. Government Printing Office [1945], p. 31.

<sup>58</sup> Biography of an Ideal, p. 73.

use of funds for the examination of attorneys.”<sup>50</sup> The President was thus obliged to again place attorneys in the excepted services, where they have remained, since the annual appropriations covering the Civil Service Commission retains the rider forbidding use of funds for examining attorneys. Other positions brought into the competitive service via executive order during this period (aside from the three already noted, following the Ramspeck Act), were as follows:<sup>60</sup>

Executive Orders 8383, March 28, 1940, Office of Indian Affairs (456); 8699, March 1, 1941, Federal Deposit Insurance Corp. (475); 8811, June 30, 1941, Office of Government Report (297); 8886, September 3, 1941, Coast Guard (181); 8939, November 13, 1941, Farm Security Administration (1,104); and 8952, November 27, 1941, various agencies (1,282).

Executive Order 9691 of February 4, 1946, revoked the War Service Regulations and called for a return to competitive examinations. In general, incumbents of war-service appointments were required to compete with the general public for retention of the position. “However, several thousand persons were accorded classified status non-competitively under special provisions of the Civil Service Rules covering disabled veteran incumbents and other special groups.”<sup>61</sup> Another important development in the immediate aftermath of the war was in the organization, in 1946, of Civil Service Commission inspection divisions in the District of Columbia and also in the regional offices: “This program was designed to provide advice and assistance to agencies in the administration of their personnel-management responsibilities as well as to provide the Commission with current and accurate information on the manner in which specific delegations of authority from the Commission were exercised by the agencies.”<sup>62</sup>

Upon the death of Franklin Roosevelt, Harry Truman became President. His first concern was, of course, ending the war. Subsequently, there were the problems of demobilization and reconversion of the country to a peacetime basis. Truman was fortunate in commencing his administration following an extended period of control by his own party. Patronage pressures were further decreased as a result of the circumstances of the 1948 election, when a sizable minority of the Democrats deserted him and, hence, had no hiring claims, and when the victory represented a personal triumph in the midst of a divided party. Truman supported the merit principles and maintained a careful line between the competitive service and patronage appointments. Regarding the latter:

Political appointments cleared either through the Democratic National Chairman or through executive assistants such as Donald S. Dawson. During the latter part of the Truman administration, Dawson became in effect the presidential Liaison Officer for Personnel Management. But the title lapsed and Dawson's functions were expanded to include political liaison with special reference to the presidential patronage. Though there were fewer offices to dispose of than in the thirties, President Truman managed them to political advantage.

<sup>50</sup> Hoover II Task Force Report, p. 183. This did not represent the first attempt to bring attorney positions into the competitive service. In 1912 Taft's Attorney General recommended that all attorneys be placed under the merit system, but the other cabinet members were not in favor, according to the Twenty-ninth Annual Report of the Commission (pp. 201-02).

<sup>60</sup> Hoover II Report, p. 8.

<sup>61</sup> Hoover II Task Force Report, p. 183.

<sup>62</sup> Biography of an Ideal, pp. 77, 78.

His renomination in 1948, despite his decline in popularity both in his party and elsewhere, was in part due to his skill in this matter.<sup>63</sup>

The report of the first Hoover Commission in 1949, as already noted, stressed the notion of decentralization in personnel management.<sup>64</sup> Its recommendations on personnel matters, as summarized by one source, were as follows:

The thrust of the report on personnel management was directed primarily to the actions needed to bring about more modern and progressive personnel practice. This report visualized the Civil Service Commission of the future as giving emphasis to what it termed as "staff functions, rather than processing a multitude of personnel transactions," and providing leadership for personnel administration.<sup>65</sup>

The report further called for the creation of an Office of Personnel in the Executive Office of the President, the director of which was to serve concurrently as Chairman of the Civil Service Commission. Although the Office of Personnel was never created, the recommendation of having a single individual responsible for administrative direction of the Commission was implemented via Reorganization Plan No. 5 of 1949, effective August 20, 1949. Henceforth, the Chairman of the Commission was to assume special administrative duties, with the "full commission" responsible for issuing regulations and standards, insuring compliance and acting as an appellate body."<sup>66</sup> It is important to note that the report did not directly address the issue of protecting the integrity of the merit system. However, in a dissenting view which went much further than the majority report (but in the same direction), James Pollock recommended—

"Complete decentralization of personnel management" to the heads of agencies. Pointing to what he referred to as "legalistic, procedural, paper-processing techniques" characterizing personnel practices, Commissioner Pollock argued that "restrictive devices—once necessary perhaps to thwart the spoilsman—must give way to a greater need. . . ."<sup>67</sup>

Additional extensions of the merit system occurred during the Truman administration. As a result of an agreement between the Post Office Department and the Commission, clerkships in third-class post offices and special delivery messengers were transferred from schedule A to the competitive service, effective October 15, 1945; this affected some 8,280 positions.<sup>68</sup> The Farmers Home Administration Act of 1946 (60 Stat. 1032) provided that positions in this agency be brought into the competitive service; involved here were 7,191 employees.<sup>69</sup>

On November 29, 1946, with Executive Order 9807, 354 positions in various Departments were blanketed-in. This was followed by Executive Order 10080, on September 30, 1949, which extended competitive status to 4,248 de facto career employees in various agencies who had been employed continuously in the executive branch since March of 1942, and who met the specified noncompetitive standards. In a similar fashion, 16,520 employees were granted competitive status by Executive Order 10157, issued August 28, 1950.<sup>70</sup> It should be emphasized

<sup>63</sup> Van Riper, pp. 404-05.

<sup>64</sup> U.S. Commission on Organization of the Executive Branch of the Government, *The Hoover Commission Report*, New York, McGraw-Hill (1949).

<sup>65</sup> The Responsibilities of the U.S. Civil Service Commission, p. 11.

<sup>66</sup> *Ibid.*, p. 12.

<sup>67</sup> *Ibid.*

<sup>68</sup> U.S. Civil Service Commission, *Sixty-third Annual Report*, for fiscal year ended June 30, 1946, Washington, U.S. Government Printing Office (1949), p. 31.

<sup>69</sup> Hoover II Task Force Report, p. 183.

<sup>70</sup> Hoover II Report, p. 8.



that these latter orders did not increase the number of positions under the merit system; "these orders did not represent extensions of the classified service, but merely accorded competitive status to incumbents of classified positions who were appointed during the emergency period under modified civil service rules."<sup>71</sup>

With regard to further extensions, the Hoover Commission had recommended that postmasters, collectors of customs, and collectors of internal revenue be transferred to the competitive service. President Truman attempted to implement these proposals by a series of reorganization plans in 1952. Reorganization plan No. 1, submitted on January 14, 1952, sought to place field offices of the Bureau of Internal Revenue under the merit system. As described by Van Riper: "Prior scandals within the revenue service in part prompted the action, and, after considerable debate, Congress reluctantly concurred in the change."

This was a major reform. \* \* \*<sup>72</sup> This was followed on April 10, 1952, by the submission of reorganization plan No. 2 which sought to place first, second, and third class postmasters in the classified service, reorganization plan No. 3, regarding collectors of customs; and reorganization plan No. 4 relating to blanketing-in U.S. marshal positions. "While the House approved the proposals by substantial majorities, the Senate balked at giving up its time-honored privilege of confirmation, and the plans failed of adoption."<sup>73</sup> It should be noted that between 1933 and 1952 some 47,756 people were brought under the merit system noncompetitively by changes in the Civil Service Rules.<sup>74</sup>

The Korean War brought about another rapid increase in the size of the Federal civil service; "from a post-World War II low of 1,943,400 in January of 1950, Federal employment reached in July of 1952, a peak of 2,604,300."<sup>75</sup> After passing the Classification Act of 1949, a major piece of civil service legislation to this day, Congress entered a period characterized as "personnel administration by rider," a return to the time-honored practice of attaching rather particularistic details to appropriations bills, beginning with the Whitten amendment in 1950.<sup>76</sup> Finally, the creation of the seven-member Fair Employment Board in 1948 should be noted; established pursuant to Executive Order 9980, the Board considered appeals from decisions of agencies regarding complaints of discrimination. This was of course, relevant to the equal opportunity dimension of the merit system.

The Board functioned within the Civil Service Commission until 1955 when it was abolished and replaced with a new body—the President's Committee on Government Employment Policy; this panel, established by Executive Order 10590 of January 18, 1955, "reaf-

<sup>71</sup> Hoover II Task Force Report, p. 184.

<sup>72</sup> Van Riper, p. 444.

<sup>73</sup> *Ibid.*, pp. 444–45. See appendix to Galemore report, below, for a listing of Reorganization Plans and their fates.

<sup>74</sup> Hoover II Report, p. 8.

<sup>75</sup> Biography of an Ideal, p. 83.

<sup>76</sup> *Ibid.*, p. 82. The Whitten amendment necessitated the issuing of Executive Order 10180, on November 13, 1950, "Establishing Special Personnel Procedures in the Interest of the National Defense." Other examples of riders during this period included the Thomas leave rider, which required forfeiture each June 30 of unused leave earned during the preceding year; the Jensen-Ferguson amendment, restricting by arbitrary formula the filling of vacancies, so as to reduce agencies' personnel ceilings; the Byrd rider, cutting down by a flat 25 percent for three successive years the size of publicity and information staffs, and various riders setting arbitrary ratios of personnel workers to total agency employment. (*Ibid.*).

firmed the Government policy, with respect to all personnel actions in the executive branch, that there shall be no discrimination because of race, color, religion, or national origin." This, in effect, shifted responsibility in the anti-discrimination area from the Commission to the White House.<sup>77</sup>

1953-60

When Dwight Eisenhower assumed the Presidency in 1953, the Democrats had been in power for 20 years. Many Republican politicians were understandably eager to exert control over the distribution of patronage once more. But with the merit system now encompassing some 85 percent of the civil service, relatively little patronage was available. According to one estimate, by 1953 "perhaps only 15,000 positions were immediately open to free and easy removal for political purposes, though another 50,000 or more offices could be anticipated as terms of office expired or incumbents died or resigned."<sup>78</sup>

Moreover, in 1953, the civil service was contracting in the aftermath of the Korean War, and the Republicans, during the campaign, had pledged still more reductions. Not only was the lack of available patronage jobs troubling to Republicans, but also equally disturbing was the fact that most of the existing positions were filled with Democrats, many who had only recently been blanketed-in. The situation in 1953 has been characterized in this way :

Many incoming Republicans felt that the agencies had been staffed in large measure with loyal Democrats who for the most part had been blanketed into their jobs. Consequently, the Republicans seriously questioned whether the bulk of the career staff would be sympathetic with the new administration's policies. In addition, there had been the highly emotional controversy over the extent to which Communists had infiltrated key positions. As a result, two kinds of loyalty were in question : national and party.<sup>79</sup>

A newspaper article in January of 1953 perhaps reflected a commonly held attitude at the time :

A powerful fifth column of New Dealers and Fair Dealers will operate in key posts under the incoming Republican Administration. . . .

Republicans will take over the top departmental jobs as Cabinet officers, under-Cabinet officers, agency heads, and various chief deputies, but these offices are largely fronts and top-policy posts.

At the level where policy is carried out and information is supplied for policy making, the New Dealers and Fair Dealers are wired in under civil service. The vast majority of these plan to remain under the Republicans to work underground for the Democrats.<sup>80</sup>

In a press release of March 5, 1953, the White House announced that certain changes were necessary in the Civil Service rules and that from the outset of the merit system, it had been recognized that certain positions should be excluded from the competitive service and that these had come to be placed in schedule A :

However, the statement continued, some of these policy-determining and confidential positions which traditionally belonged in schedule A had been taken out of this schedule and placed in the classified service. In addition, procedural safeguards against removal, which traditionally had been afforded only to competitive employees, had been afforded certain incumbents of schedule A positions by Executive orders issued in 1947 and 1948. The statement concluded by report-

<sup>77</sup> Ibid., p. 79.

<sup>78</sup> Van Riper, p. 490.

<sup>79</sup> Harvey, p. 23.

<sup>80</sup> Walter Trohan in Times Herald, January 11, 1953.



ing that the President had directed the Civil Service Commission to review the positions in schedule A and had asked the heads of departments and agencies to review their positions to determine whether additions to schedule A should be made.<sup>81</sup>

On March 31, 1953, Eisenhower announced the cancellation of removal protections for individuals in schedule A positions. In terms of numbers affected:

This action involved 134,000 full-time positions and was widely advertised as opening the patronage flood-gates. But the case is not quite so clear. Approximately half of the personnel in the 134,000 posts still retained the removal protection of the Veterans' Preference Act of 1944. Moreover, 68,000 Schedule A positions were overseas and not much subject to patronage pressure. If one exempts a few other minor categories of employees also not affected, only some 30,000 persons occupying domestic posts never under the merit system in the first place were potentially affected.<sup>82</sup>

On the same day, via Executive Order 10440, the President created a new excepted service category—schedule C—to contain positions of a policy-determining or confidential nature. In a letter transmitting the order to the agencies, the Commission Chairman explained:

The objectives of the President in issuing this Executive order have been (a) to strengthen the civil service system, by removing therefrom positions of policy-determining nature together with those positions where the duties are such that there must be a close personal and confidential relationship between the incumbent and the head of the agency or one of his key officials; and (b) to enable the administration to make appointments directly to those positions involving the determination of major executive policies. When any such position is placed in schedule C by the Commission, the position will be subject to appointment at the discretion of the head of the agency.

As the Task Force on Personnel of the Second Hoover Commission stated, after citing this passage: "It is clear that, apart from the patronage clamors and the demands for change, the most basic and tangible reason for the creation of schedule C, so far as the new political executives were concerned, was the immediate desire to have some freedom in choosing the incumbents of top-management positions."<sup>83</sup> Van Riper observed that the establishment of schedule C was actually "a long overdue step toward a more precise identification of policy-making posts unsuitable for inclusion in the permanent service." However, as he continued, the action created considerable controversy:

Although the Civil Service Commission promised from the beginning that "only a relatively small number of Federal positions will be placed in this schedule," the uncertain patronage policy of the new administration made this proposal suspect, and it received a good deal of criticism of an anticipatory sort. Actually, by October 11, 1954, for example, no more than 1,127 positions had been placed within the new category, though agency heads had sought exemption for more than double that number. Approximately 52 percent of the positions in the new schedule consisted of transferrals from Schedules A and B (very few from the latter, however), 23 per cent were new positions, and 25 per cent were transferrals from the competitive service. Most of the argument lay over these latter positions, and the Task Force on Personnel and Civil Service of the Second Hoover Commission was to term these exclusions from the merit system as "the most significant cut-back of the competitive service in its history." As many relatively high posts were involved, this was in a sense true, though President McKinley's withdrawals from the competitive service far exceeded the total number of posts involved here. The schedule was also criticized—this time on more solid ground—for containing a number of lower level jobs,

<sup>81</sup> Hoover II Task Force Report, p. 190.

<sup>82</sup> Van Riper, p. 497.

<sup>83</sup> Hoover II Task Force Report, p. 191.

where the connection to policy seemed remote. Nevertheless, the new development was on the whole an advance in clarifying the relationship between political and nonpolitical executives.<sup>84</sup>

In addition to the formal actions of March 31, 1953, there were other patronage efforts attempted by the new administration. Eisenhower himself reportedly opposed any major circumventing of the merit system, tended to become easily annoyed with the problems of patronage, and displayed little interest in managing such operations. Along with other factors, this contributed to the fragmentation of patronage dispensation in the early months of the administration.<sup>85</sup> In an effort to coordinate the patronage distribution, various actions were instigated under the general direction of Charles Willis, Jr., an assistant to Sherman Adams, the chief of the White House Office Staff. The discovery of an initial White House memo conveying procedures for political clearance of appointments—never intended to come to public attention—by reporter Jerry Kluttz led to an exposé of the patronage efforts in the Eisenhower administration, described in a series of articles published in the *Washington Post* and *Times Herald*. Kluttz's counterpart as a Federal columnist for the then *Evening Star*, Joseph Young, also contributed disclosures through his columns.<sup>86</sup> The articles initiated a heated public debate on the topic, which subsequently developed into a campaign issue of some import, and later still, the subject of a congressional investigation.

The first article by Kluttz appeared on July 19, 1954. In the article, he reported that the secret memoranda on clearance procedures were hand carried to agency heads and further elaborated:

In recent weeks agency heads have received "confidential: not for publication" letters on White House stationery, in which they were directed to clear certain of their jobs with the committee before making appointments to them.

Strangely, the letters were not signed. Only a small supply was printed. Reportedly, they were delivered by hand to some agency heads for their information only. Precautions were taken to keep copies from the public eye.

However, it is reported on excellent authority that many agency heads have been instructed either by letter or orally to clear appointments to these jobs with the Republican National Committee:

Jobs in grade 14 (\$9,600 starting salary) and upward, irrespective of whether they are in or out of the civil-system.<sup>87</sup>

In the "Front Page" column for the *Evening Star* of August 5, 1954, Joseph Young provided additional details on the situation; Young reviewed the ground already covered by Kluttz, but, in addition, called attention to the role of Civil Service Commission Chairman-Presidential Personnel Adviser, Philip Young:

Chairman Philip Young, of the Civil Service Commission, who is supposed to be President Eisenhower's representative on Government personnel matters, told the *Star* he knew nothing about the White House directive regarding political clearance of civil service jobs. Apparently, this important policy decision was reached without even consulting Mr. Young or the Civil Service Commission, which has the duty of operating the Government's merit system.

The White House order was withdrawn after the adverse publicity it received. Legal officials also pointed out that the civil service laws expressly prohibit any political consideration in the appointment and promotions to civil

<sup>84</sup> Van Riper, p. 496.

<sup>85</sup> *Ibid.*, p. 490.

<sup>86</sup> A bibliography containing 28 articles by Kluttz and Young on the subject of patronage efforts in the Republican administration, published between February 4, 1954, and February 3, 1955, has been compiled by staff of the House Post Office and Civil Service Committee.

<sup>87</sup> Jerry Kluttz, *Drive for Patronage Seeks Added Jobs* (*Federal Diary*), *Washington Post* and *Times Herald*, July 19, 1954.



service jobs. A new order was issued this week to the effect that only non-civil service jobs in grade 14 and above must be cleared with the Republican high command.<sup>88</sup>

Columnist Joseph Young then alluded to doubts about the Commission's possible involvement with the patronage drive as well as to the denial of that by Chairman Philip Young:

The Commission directed each of its 10 regional offices and the 800 agency boards of examiners in the field to send a copy of each authorized job opening to the head of the appropriate department or agency here in Washington.

The Commission says this step was taken to acquaint agency heads with their hiring problems and to have them order their agency boards to hold more exams and thus cut down on this type of appointments.

Commission officials said this was a major step to strengthen the merit system. Yet the move was done in secrecy. No press release was put out on it.

Many feel that the Civil Service Commission's move was taken for just the opposite effect—to supply Federal job information to the Republican National Committee and other GOP patronage sources so these job vacancies can be filled by the party faithful. Reports are that the Civil Service Commission was not too happy about taking this step but that it was pressured into doing so by the Republican high command. Mr. Young denies this.<sup>89</sup>

On September 24, 1954, another story by Kluttz appeared on the subject, describing the administration's recently issued policy statement titled "Guide to Personnel Action." He reported that President Eisenhower and his Cabinet had approved a hardhitting policy directed toward wiping out political influences from the civil service merit system, and that a copy of the statement was being circulated to various officials. As quoted in the Kluttz column, the document stated, in part:

It is the policy of the administration that the career service will be protected and strengthened against political pressures. Any action on the part of any person which is contrary to this policy is a potential embarrassment to the President and opens him personally to the criticism that he is playing politics with the Civil Service.

Therefore, it is imperative that all possible steps be taken to see to it that all persons dealing with personnel matters in your organization are fully informed concerning the Civil Service laws, rules, and regulations.

Any instances in which it is found that the civil service laws, rules, and regulations have been violated should be immediately corrected and steps taken to see that similar cases are properly handled in the future.<sup>90</sup>

But in an article appearing on October 27, 1954, less than a week before the elections, Kluttz reported more revelations under the heading "GOP Makes U.S. Job Drive." The article contained extensive documentation, including charts, memoranda, reporting forms, and a cover letter signed by Willis; the various materials relating to the "operation peoples' mandate," more commonly labeled the "Willis plan," were subsequently reprinted in a 1957 Senate report [discussed below]. The Kluttz piece began:

The White House has launched a determined new drive to find jobs and win promotions in the Federal service for persons who have Republican political endorsements.

It also has set up a reporting system which can be used to check up on how each agency fills vacant jobs and to make sure the agency cooperates with the new Jobs-for-Republicans drive.

<sup>88</sup> Joseph Young, *Republicans Gaining Control of Top Civil Service Jobs* (Front Page), Evening Star, Aug. 5, 1954.

<sup>89</sup> *Ibid.*

<sup>90</sup> Jerry Kluttz, *Ike Acts To Wipe Out Politics in U.S. Jobs* (Federal Diary), Washington Post and Times Herald, Sept. 24, 1954.



The campaign is spearheaded from the White House office of Sherman Adams, the Assistant to the President. Adams' assistant, Charles F. Willis, Jr. has sent full details on how the program is to operate to Republican members of Congress and Republican officials in the 48 states.<sup>81</sup>

According to Kluttz, the White House had not intended to make the plan public, but had inadvertently sent copies to certain Democratic Members of Congress. The article went on to outline several provisions of the Willis plan, including the following:

It set up the Republican National Committee as a major recruiting agency for the Federal service.

It directs each Federal agency to report job vacancies on forms to be supplied by the Republican National Committee.

It requests agency officials here to make weekly and monthly reports to the Republican National Committee and to the White House on how their job vacancies were filled.

It promises that each applicant referred by a local sponsor will be treated with the utmost consideration and will be made to feel that the agency appreciates the consideration of local sponsors in referring qualified applicants for consideration.

It confers on a GOP Senator or Senators from the state in which the job is located "top priority" in recommending a "qualified" applicant for the post. A Republican House member or GOP state official is to be given secondary consideration.<sup>82</sup>

Kluttz concluded his story with a note from the congressional point of view: "Meantime, Sen. Olin D. Johnston [D., S.C.] and other Democratic leaders have threatened to investigate politics in the civil service if the Democrats win control of the Congress in next Tuesday's voting." According to Kluttz, Willis defended the plan, stating:

The program is in complete accordance with the President's desire that politics shall not in any way interfere with the Federal career service. The program is designed and operated to raise the effectiveness of the personnel management in executive departments and agencies.<sup>83</sup>

And in a press conference on the same day the story appeared, President Eisenhower, in response to a question as to whether he had personally approved the jobs-for-Republicans method for recruitment answered:

Q. Could you tell us, sir, whether you have, in fact, approved this method of recruitment through the party machinery?

The President. Indeed I have. It is nothing in the world but an effort to get the best kind of people applying for governmental service that you can get, to get the White House out of the channel, so far as possible, to get these people recommending to the Civil Service Commission or to the departments in question, and to make a record of the people who do so recommend these individuals so that if we have any difficulty we know exactly who is responsible. Now it is a generality, it is a long detailed thing, but it is to get it away from the White House as far as we can.

There were additional stories in the days before and immediately after the election by both Kluttz and Joseph Young.<sup>84</sup> Particularly noteworthy was an editorial on the subject, appearing in the Washington Post:

Every political party in office tries to take care of its own. The Eisenhower Administration's formal program of "Jobs-for-Republicans" is therefore no novelty. It is simply a little more formal and a little more blatant than the patronage

<sup>81</sup> Jerry Kluttz, *GOP Makes U.S. Job Drive* (frontpage headline story). Washington Post and Times Herald, Oct. 27, 1954.

<sup>82</sup> *Ibid.*

<sup>83</sup> *Ibid.*

<sup>84</sup> These are listed in the House Post Office and Civil Service Committee bibliography, described above in note 86.

schemes of predecessor administrations; and it slaps the public in the face with a little more shock because of the extreme piety of the President's pronouncements on the merit system and the career Civil Service.

The White House has sent to Republican Congressmen and to state officials of the party a four-page letter describing the "personnel procurement procedure" that is to be followed by GOP leaders to obtain Federal jobs and promotions for their proteges. This letter was not intended for publication, of course; it went, by inadvertence, to several Democratic Members of Congress. It makes the Republican National Committee a major recruiting agency for the Federal service and directs Federal agencies to report job vacancies to that committee. It promises top priority on jobs to GOP Senators and invites GOP political indorsements for jobs in and out of the Civil Service. And to make sure that Federal agencies do not by any "inadvertence" revert to a merit basis of selection, the White House order required them to make weekly and monthly reports to the Republican National Committee on how their job vacancies were filled.<sup>95</sup>

In a front page story of November 7, 1954, Kluttz further reported on a network of special personnel contacts in the respective departments and agencies. Many were surprised to learn of the arrangement, in light of the extremely negative press the patronage effort had received to date. The article stated, in part:

The Eisenhower Administration has set up a network of strategically placed officials throughout the Federal service here to help it enforce its Jobs-for-Republicans directive.

A list of people to be contacted on job openings; their agencies, and their phone numbers has been circulated to key Republican politicians and to a select few officials in Government.<sup>96</sup>

Kluttz further reported that the plan to appoint such patronage dispensers had been formulated in the office of Sherman Adams, during a White House conference in December of 1953: "Earlier, CSC had rejected requests of several agencies to transfer personnel director jobs from the merit system to the political schedule C. At the White House conference, it was decided, in effect, to supersede the personnel directors."<sup>97</sup>

The details of this patronage effort in the Eisenhower administration have been related in some detail here because of the extensive press coverage given to it. It should be acknowledged that similar, if not identical, operations have undoubtedly gone on in virtually all administrations since 1932. However, it has not proven feasible to examine the other instances of patronage in such detail because of the lack of readily available information.<sup>98</sup> Overall, Kaufman has offered this perspective on patronage operations in the Eisenhower administration:

Political clearance was not a novel practice, but a written White House issuance formally requiring National Committee recommendations startled even seasoned Washingtonians, especially since the story came to public attention only after the procedure had been in effect for several months and gave the entire practice a conspiratorial overtone.

Yet by the time the Eisenhower years in the White House came to an end, it had become fairly clear that the administration would be identified as re-

<sup>95</sup> Jerry Kluttz, *GOP Plans Job Contact in Key Spots* [front page story], *Washington Post* and *Times Herald*, No. 7, 1954.

<sup>96</sup> *Ibid.*

<sup>97</sup> In addition to the bibliography cited previously, a draft narrative covering the subject of patronage in the Eisenhower years, prepared by Gordon Freedman, of the staff of the House Post Office and Civil Service Committee, was made available to the writer. Acknowledgement is made of "borrowings" from the Freedman manuscript in the discussion above.

The Patronage efforts during the Nixon administration have been subjected to intensive scrutiny recently by the House Committee on Post Office and Civil Service; see the investigative report of their findings and the various hearings held from 1974-1976.



strained (compared to many of its predecessors) in the use of patronage and would even appear as a champion of the merit system. The positions from which removal protections were lifted were largely outside the competitive service. Although a substantial number of high-ranking posts were placed in Schedule C, it did not by any means become a massive repository of patronage appointments. The Willis Directive articulated and institutionalized practices normal under every President; it was not a break with tradition.<sup>99</sup>

Along with these various patronage efforts, there were some extensions of the competitive service during the Eisenhower administration. In 1955, 10,000 Federal civilian positions in Alaska were brought into the competitive service, and plans were completed for adding 20,000 Department of Defense civilian overseas positions.<sup>100</sup> In addition to expanding the merit system, this action facilitated the recruitment effort:

This action made possible the reassignment of employees to and from overseas positions without loss of their standing in the civil service. The loss of civil service rights and privileges by employees going overseas had been a serious obstacle to agencies trying to maintain an efficient work force abroad.<sup>101</sup>

Public Law 84-870—August 1, 1956—transferred positions in the Renegotiation Board from the excepted to the competitive service.<sup>102</sup>

The annual report for fiscal year 1957 provided the last time "extension of the competitive service" was listed as an entry in the contents; several additions to the competitive service were noted for the year:

—On August 15, 1956, some 8,000 to 10,000 laborer positions were brought into the competitive service for the first time.

—Effective September 21, 1956, a restriction was placed on the use of Schedule A of the Civil Service Rules in the hiring of agricultural agents under cooperative programs in the Agricultural Research Service. This brought an estimated 1,200 positions into the competitive service.

—On December 20, 1956, some 400 positions in nondefense agencies in foreign countries came into the competitive service.<sup>103</sup>

The 1957 annual report also explained the new section 6.7 of the Civil Service rules which provided "for the interchange of personnel between the competitive civil service and other Federal merit systems when such interchange is in the interest of good administration and not inconsistent with civil service and other applicable laws."<sup>104</sup> The following year this progress report was related with respect to exchange of personnel between Federal merit systems:

Another agreement was completed during the year under the authority of Section 6.7. . . . The first such agreement was made last year with the Atomic Energy Commission. This year the Commission made an agreement of this type with the Tennessee Valley Authority covering its white collar employees. TVA white collar employees may now move noncompetitively to positions in the competitive service. Employees in the competitive service may move to TVA, in other than trades or laborer positions, as they would transfer from one position to another within the competitive service.<sup>105</sup>

The impetus which this provision, relating to exchange of personnel between merit system, gave to an effort to formulate definitional criteria for merit was noted in chapter one.

<sup>99</sup> Kaufman, pp. 50, 51.

<sup>100</sup> U.S. Civil Service Commission, Seventy-second Annual Report, for fiscal year ended June 30, 1955. Washington, U.S. Government Printing Office [1955], p. 4.

<sup>101</sup> Biography of an Ideal, p. 94.

<sup>102</sup> U.S. Civil Service Commission, Seventy-third Annual Report, for fiscal year ending June 30, 1956. Washington, U.S. Government Printing Office, p. 209.

<sup>103</sup> Seventy-fourth Annual Report of the Civil Service Commission, for fiscal year ending June 30, 1957 [1957], p. 7.

<sup>104</sup> Ibid., p. 12.

<sup>105</sup> Seventy-fifth Annual Report of the Civil Service Commission, for fiscal year ended June 30, 1958 (1958), pp. 21-22.

But to return to the matter of patronage, the Democrats regained control of Congress as a result of the 1954 elections. Senator Olin Johnson thus returned to the chairmanship of the Senate Post Office and Civil Service Committee. As he had promised in the statement reported by Kluttz before the election, the committee undertook an investigation of the civil service under the Eisenhower administration. James Watson, then director of the National Civil Service League,<sup>106</sup> was hired as a consultant to the committee. Although the league had been the subject of some criticism in 1954 for not providing more vigorous leadership in speaking out against the patronage efforts, their annual report for the year of 1954 did urge an end to the recent practices. As quoted by Kluttz in a "Federal Diary" column on February 3, 1955:

This (the Willis Plan) gave political leaders priority for top-level career posts in the Federal civil service. Although this procedure showed considerable effort to comply technically with the law and with CSC's rules, nevertheless, it is so contrary to the nature and the spirit of a career civil service that at best it is confusing and ever demoralizing to the civil service.

We believe that technically it transgresses the Executive Orders and that in principle it is faulty, for on one hand it confuses the career civil service with party politics, and on the other, it seems to indicate at least a degree of surrender of Executive responsibility to members of the legislative branch in finding talent for the civil service.<sup>107</sup>

The product of this investigation, titled, "Administration of the Civil Service System," was published in 1957 and received wide circulation as a committee print, but in actuality represented a staff paper rather than a report of the committee, since it was never formally endorsed by the Post Office and Civil Service Committee.<sup>108</sup> The document was divided into two distinct sections. Part I, the committee staff report, contained a one page "Introduction," concluding with this passage regarding the administration of the civil service system:

The Civil Service Commission is responsible for administration of the civil service system.

Members of the committee are distressed that the Commission has not taken a more affirmative approach in the exercise of its authority and responsibility. Rather, it has consistently followed a negative course with the result that the system has become weighted down with antiquated policies, procedures, and in some instances, even personnel.

It is long past the hour that the barnacles of age be removed so as to permit the system to move forward toward its goal.<sup>109</sup>

The bulk of this committee staff section reported 17 recommendations focusing on a variety of spheres, including a call for modernizing and revitalizing the Commission, creation of an independent Federal Board of Appeals, and the development of required qualification standards to be used "in the filling of positions removed from the merit system and placed in schedule C ostensibly because of their policymaking nature." Part II, the Watson report, contained the investigative findings intended as the foundation from which the rather broad recommendations in part I were generated.

<sup>106</sup> "Reform" was dropped from the name of the former National Civil Service Reform League.

<sup>107</sup> Annual Report of the National Civil Service League for 1954, as quoted by: Jerry Kluttz, *Civil Service League Assails Patronage Order* (Federal Diary), Washington Post and Times Herald, Feb. 3, 1955.

<sup>108</sup> U.S. Congress, Senate, Administration of the Civil Service System. Report to the Committee on Post Office and Civil Service, 85th Cong., 1st sess., Comm. Print. No. 2. Washington, U.S. Government Printing Office (1957). Cited hereinafter as Watson Report.

<sup>109</sup> *Ibid.*, p. 10.



In his discussion, Watson examined both the recent patronage abuses, providing a relatively detailed analysis of the Willis plan, and also of the institutional structure of the civil service system. The portion of the Watson study titled "Politics and the Civil Service" is of considerable interest to concerns here with the history of the merit system and has been included as an attachment to this chapter (see p. 290). Watson placed the problem of patronage (which he evidently considered as being somewhat endemic) in historical context, noting: "The struggle between the need for the competence and experience that can be produced only by continuity and the service and the need for political advantage that the parties hope to gain by making appointments on the basis of personal, partisan, and geographic considerations, is one that every President beginning with George Washington has faced."<sup>110</sup> In tracing the evolution of patronage in American history, Watson pointed to the techniques utilized by the Roosevelt and Truman administrations; he further examined the special problems confronting the Eisenhower administration (as surveyed above). Against this background, Watson summarized the "Willis plan" and its detrimental effects under the heading of "A Modern Spoils System."<sup>111</sup>

With respect to the structural framework for the civil service, Watson contended that the Civil Service Commission had come to acquire two not entirely compatible responsibilities—its traditional role of protecting the integrity of the merit system coupled with the newer function of administering a modern system of personnel management, and he recommended that the functions be assigned to different agencies:

The Civil Service Commission has developed with a dual function. The first is to protect the development of the civil service from political influence and manipulation, by restricting the authority of political leaders and the President in making appointments and in removing persons from public office, except for a cause. The second function, while less clearly defined, is to serve as the executive arm in developing a system of personnel management. Today these two functions need a more careful and clear definition. Both should not be the responsibility of one agency.<sup>112</sup>

In a proposal rather similar to that of the Brownlow committee in 1937, Watson called for the establishment of an Office of Personnel Management within the Executive Office of the President, while he envisioned that the Commission,

\*\*\* should be recognized as the independent "watchdog" agency and strengthened in this role. Its duties should be primarily appellate and rule making and not operating. It should be in full charge of the appeals system, should determine various policy matters and should recommend others. It should, above all, work in strong and independent fashion to maintain the full confidence, prestige, and integrity of the system. It must be especially alert to internal organization and staff problems as its newly defined role emerges.<sup>113</sup>

Subsequently, Senator Joseph Clark, in May of 1958, introduced S. 3888, "A bill to provide for an effective system of personnel administration for the executive branch of the Government." The proposal was very similar to that articulated by Watson in stressing the need to separate "watchdog" and positive personnel functions. Five

<sup>110</sup> *Ibid.*, p. 36.

<sup>111</sup> See attachment to this chapter.

<sup>112</sup> Watson Report, p. 80.

<sup>113</sup> *Ibid.*, p. 51.



days of hearings were held in June of 1958, with testimony received from a diverse collection of individuals and groups including representatives from Government, industry, academia, and employment unions.<sup>114</sup> The special subcommittee of the Senate Post Office and Civil Service Committee issued a 16-page report on the bill, which included a history of proposals for civil service reorganization and discussions of the weaknesses in both the present organization and of the President in the area of personnel leadership.<sup>115</sup> According to the report, S. 3888:

Would establish an Office of Personnel Management in the Executive Office of the President and transfer to it those functions of the Civil Service Commission which comprise the positive leadership responsibilities in the field of personnel administration now assigned to the Commission but more properly the function of the Chief Executive. The Civil Service Commission would retain those functions associated with its "watchdog" role as protector of the merit system.<sup>116</sup>

The report further suggested that four basic questions were raised by the bill:

Whether the reorganization proposed in S. 3888 is desirable depends on the answers to four fundamental questions:

1. Is personnel management an essential part of the President's general responsibility under the Constitution for the execution of the laws?
2. If so, can the President's responsibility be more effectively discharged through a single official responsible to him than through a semi-independent commission?
3. Is it more likely that the departments and agencies of the Government will do a better job of personnel management, resulting in the recruitment and retention of superior men and women in Government service, if leadership in personnel management comes from the President through his Executive Office rather than from and through a semi-independent commission?
4. Can the merit system be protected if responsibility for the positive leadership aspects of personnel administration is transferred from the Civil Service Commission to the President?

The subcommittee believes that the answer to all four of these questions is affirmative.<sup>116</sup>

In 1959, Clark again introduced the bill, known as S. 1639, in the 86th Congress. Four more days of hearings were held,<sup>117</sup> and another report was prepared.<sup>118</sup>

No further action was taken on the Clark bill; this represented the last relatively extensive congressional consideration of the Civil Service Commission and the merit system for more than a decade—until the investigation undertaken by the House Post Office and Civil Service Committee in the seventies.

There was another investigation in the 1950's, however, by the House Post Office and Civil Service Committee. The report, issued in 1956, was titled simply "United States Civil Service Commission."<sup>119</sup> As described in its letter of transmittal, the report conveyed

<sup>114</sup> U.S. Congress, Senate, Committee on Post Office and Civil Service, To Provide an Effective System of Personnel Administration, Hearings, 85th Cong., 2nd sess. on S. 3888, Washington, U.S. Government Printing Office [1957] 195 pp.

<sup>115</sup> U.S. Congress, Senate, Committee on Post Office and Civil Service, To Provide an Effective System of Personnel Administration, Report of the Special Subcommittee on S. 3888, Washington, U.S. Government Printing Office [1958].

<sup>116</sup> *Ibid.*

<sup>117</sup> U.S. Congress, Senate, Committee on Post Office and Civil Service, Federal Personnel Administration, Hearings on S. 1638, Washington, U.S. Government Printing Office, 1960.

<sup>118</sup> U.S. Congress, Senate, Committee on Post Office and Civil Service, Federal Personnel Administration, Report to accompany S. 1638 (86th Cong., Sen. rept. 1545), Washington, U.S. Government Printing Office, 1960.

<sup>119</sup> U.S. Congress, House, Committee on Post Office and Civil Service, United States Civil Service Commission, 84th Cong., H. Rept. 1844, Washington, U.S. Government Printing Office, 1956.

"findings and recommendations resulting from observations, surveys, and studies of the organization, programs, and operations of the Civil Service Commission over the past 3 years." The report recommended the familiar call for decentralization of certain personnel functions, but along with such delegation of authority the Commission needed to expand its inspection and audit activities. For example, the report recommended:

—Legislation to "clarify and strengthen the position of the Civil Service Commission as the Central Government agency vested with authority and charged with responsibility for the overall administration of the Federal civil service system."

—Legislation to "clearly define the relationship of the Civil Service Commission to other executive agencies and the extent of the authority of the Commission with respect thereto," insuring that "official actions and determinations of the Commission receive proper recognition and compliance."<sup>120</sup>

Although the committee's call for the codification of civil service law was not accomplished until 1966, another recommendation was acted on within a few months. The establishment of staggered, 6-year terms for members of the Civil Service Commission was passed as a rider to the Executive Pay Act, approved July 31, 1956.

Still another relevant report was that of the Second Hoover Commission in 1955, which also stressed decentralization coupled with vigorous inspection.<sup>121</sup> As summarized in one source:

By the time of the Second Hoover Commission, however, the calls for decentralization began to be coupled with recommendations for "vigorous, realistic, and reasonably frequent inspections in order to assure compliance," emphasizing "adherence to all statutory provisions for veterans' preference and maintenance of the merit principle." Because of the drain on CSC resources associated with withdrawing delegations of authority from agencies when repeated violations were found, the Hoover Commission felt the CSC "should be authorized to change the costs of repossessed functions to the agencies concerned"<sup>122</sup>

The Commission report also devoted considerable time to the problem of distinctions between career (competitive service) and non-career (political appointees) executives for the Federal Government. With regard to this matter, the Second Hoover Commission concluded, ". . . not only have we failed to work out a clear division of labor between our noncareer and career administrators but we have not provided adequate means to secure or develop sufficient numbers of experienced and able personnel in either group."<sup>123</sup>

The Report of the Task Force on Personnel and Civil Service of the Second Hoover Commission contained a section titled "Politics in the Merit System," which began with this passage:

"Politics" in the merit system is always a depressant to the morale of career civil servants and a disturbing element in the operations of an executive department. By "politics" is meant appointments or other personnel actions that are influenced by partisan considerations of a personal, a factional, or a party character in areas outside those which are the proper purview of political executives. "Politics" in the merit system must be distinguished from the appointment of political executives and their political aides who properly are chosen at the direction of the Chief Executive and serve at his pleasure. . . .<sup>124</sup>

<sup>120</sup> Cited, *The Responsibilities of the U.S. Civil Service Commission*, p. 18.

<sup>121</sup> U.S. Commission on Organization of the executive branch of the Government. Report. Washington, U.S. Government Printing Office, 1955.

<sup>122</sup> *The Responsibilities of the U.S. Civil Service Commission*, p. 17.

<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid.*, p. 122.



The source of the problem, according to this analysis, was that the Federal merit system had grown by means of periodic enlargements since 1883, but without "a clean break with the mid-19th century patronage system. . . . Consequently, the merit system and the spoils systems have continued to exist side by side with the former increasing and the latter diminishing but still very much alike."<sup>125</sup> The task force then turned to the forms taken by the patronage pressures:

Patronage attacks upon the merit system, or abuses which permit "spoils" to enter, have four principal forms: (1) Improper exceptions from the competitive service which may occur through administrative action in excepted schedules A, B, or C, or through legislative action; (2) appointments in the absence of a civil service register; (3) lateral entry into the competitive civil service through outside recruitment at high levels without genuine open competition; (4) political clearance of appointments, particularly promotions, within the competitive civil service.<sup>126</sup>

With respect to political clearance, it was noted:

Political clearance of appointments to competitive positions is a quick and sure way to subvert the merit system. When men who are otherwise qualified for promotion within the classified service are cleared with Senators, Congressmen, or party committees, the career service begins to lose its character. Influence, political affiliations, and friends in party circles become the avenues to advancement instead of professional competence. Political neutrality for career civil servants becomes more difficult to achieve; and the knowledge that political influence is controlling key appointments spreads, undermining employee morales.

All forms of political clearance of appointments to competitive positions are contrary to either the spirit or the letter of the law.

The spirit of the law is much broader than the letter of the law which was enacted in 1883. Probably the letter of the law should be brought up to date with realities but in any event patronage practices which take advantage of loopholes cannot be condoned. If done for any considerable period or on any extensive scale, they destroy the merit principle: the civil service system becomes a hollow shell and the ultimate loser is the public whose efficient management has been sacrificed to special interests.<sup>127</sup>

The task force outlined six general recommendations, the final one of which called for legislative action:

The civil service law should be amended to prohibit the soliciting, obtaining, transmitting, making, or receiving of a political endorsement by a Federal official or employee; by the official, employee or representative of a national, State, country, or city political committee or party organization; or by an official, employee, or representative or any registered lobby, in connection with any position or vacancy to be filled in the competitive civil service. A political endorsement should be defined to include any statement as to the party affiliation of the candidate or the interest of the endorser in the appointment of the candidate. Violations should be made a misdemeanor.<sup>128</sup>

## 1960 TO THE PRESENT

Two congressional documents were published in 1960 that are of special interest with regard to the evolution of the merit system. Both were prepared by the Civil Service Commission at the request of congressional committees. "Maintaining the Integrity of the Career Civil Service" was a brief report prepared in response to a request by the House Post Office and Civil Service Committee. Committee Chairman Tom Murphy had posed eight factual questions relating to an orderly

<sup>125</sup> *Ibid.*, pp. 122-23.

<sup>126</sup> *Ibid.*, p. 124.

<sup>127</sup> *Ibid.*, pp. 125-56.

<sup>128</sup> *Ibid.*, p. 127.

transition to a new administration for the Federal civil service as follows:

1. What are the major laws, Executive orders and regulations now existing which protect career civil servants from adverse action on the basis of political considerations?

3. Are there particular classes of employees who may be peculiarly vulnerable necessary in order to give an incoming administration proper policy direction and control, what rights and protections are available for the civilian staff subject to reassignment or release?

3. Are there particular classes of employees who may be peculiarly vulnerable as a result of a change in administration? If so, are any special measures necessary to insure that they receive equitable treatment?

4. What means does the Commission have for anticipating and preventing improper personnel actions or detecting improper actions and effecting necessary corrective action?

5. Will there be a need for positive control of new employments until the necessary and proper personnel adjustments following the change in administration have been accomplished? If so, does the Commission now have the necessary authority to exercise such control?

6. What steps does the Commission plan to inform new political managers of the nature of the Federal career system, the services it will provide for new political leadership, and the new managers' authorities and responsibilities with respect to operation of the career system?

7. What plans exist to acquaint new Congressmen and key members of their staffs with the system of personnel administration in the Federal service?

8. Within the framework of existing laws, what other specific courses of action are contemplated by the Commission to help provide for an orderly transition to a new administration?<sup>129</sup>

Of particular interest here is the Commission's answer to the fourth question regarding means for anticipating and preventing improper personnel actions to which the Commission responded:

In anticipating the problems inherent in a changeover to a new administration, the Commission is able to draw upon its past experience with previous changes in administration. We are also able to draw upon the experience of others who have participated in previous changes.

We are able to gain considerable insight into emerging threats against the integrity of the system through our regular inspection program, correspondence, and formal appeals.

In our view, agency personnel directors are in the best position to advise against personnel actions that will harm the career service. The Commission is able to make an effective contribution in this area through the Interagency Advisory Group, through cooperation with the White House and the Bureau of the Budget in Government-wide orientation and planning activities, through constant attention to the career system to assure that it is responsive to current needs, through day-to-day contacts with agency management and personnel officials, through more formal contacts with agency officials.

Section 05.4 of the Civil Service Rules (Executive Order 10577) authorizes the Commission to order a correction when an employee appeals an improper adverse action. For example, if an employee is separated for political reasons, or in violation of any procedures prescribed in Commission regulations, we can direct his restoration.<sup>130</sup>

The second document titled "U.S. Government Policy and Supporting Positions" followed in the tradition of "plum books" listing patronage positions available. This 1960 edition represented the first volume in a new format: subsequently similar versions have appeared every 4 years as committee prints, published alternately by the Senate

<sup>129</sup> U.S. Congress, House, Maintaining the Integrity of the Career Civil Service, Report submitted by the U.S. Civil Service Commission for use of the Committee on Post Office and Civil Service, 86th Cong., 2d sess., House Rept. 2224, Washington, U.S. Government Printing Office, 1960.

<sup>130</sup> *Ibid.*, pp. 5-6.



and House Committees on Post Office and Civil Service. The 1976 edition included a foreword, which related:

Since the first publication of "Policy and Supporting Positions" in 1960, an impression has developed that it is a list of "political jobs," or a "Plum Book" connoting its use by a new administration to make appointments in the executive branch. To an extent, this is true; individuals who serve at the pleasure of the President or as confidential assistants to Presidential appointees obviously hold "political jobs" and they are listed herein. "Policy and Supporting Positions," however, goes beyond that limited group. It is designed to list the jobs which are the leading positions in the U.S. Government.<sup>131</sup>

President Kennedy, assuming the Presidential office after 8 years of Republican control provided active support for the Commission, but also utilized the patronage opportunities available. The Federal civilian work force increased by more than 100,000 during Kennedy's administration; most of the positions were placed under the competitive service. However, schedule C included 900 employees in June of 1960, while 2 years later there were 1,400 positions placed here.<sup>132</sup> And at least one critic has compared certain actions of Kennedy with those taken by Franklin Roosevelt: "Reminiscent of Roosevelt's socially motivated ideologies for creating New Deal agencies was Kennedy's initiation of the antipoverty program, which served noble social ends while it also opened up an entirely new area of social patronage to the Kennedy administration."<sup>133</sup>

One of Kennedy's most noteworthy actions in the personnel field was the issuing of Executive Order 10988 in 1962, which promulgated a full-scale Federal policy regarding labor-management relations. Also in 1962, via Executive Order 10987 Kennedy extended some of the removal protections already granted to veterans—allowing for appeals—to nonveterans as well. As Kaufman has emphasized:

Thus the jurisdiction of the Commission was expanded from guardianship of the entrances to the public service to surveillance of the exits also. As the appointing authority of administrators had been restricted in 1883, so too their removal powers were eventually to be circumscribed.<sup>134</sup>

In November of 1966, with Executive Order 11315, the new executive assignment system was established for employees in the executive branch occupying positions at the GS-16, 17, and 18 levels. Two major types of assignments were to be utilized: Career executive and non-career executive, the latter being outside the competitive service, which in effect separated out from schedule C the supergrade positions and placed them in a special category.<sup>135</sup>

By the 1960's the possibilities for extending the merit system were quite limited, with some 86 percent of all Federal civilian jobs under the competitive system; even within the 14 percent constituting the excepted service, feasible extensions were considerably less than the almost 364,000 positions currently placed there.

But over 116,000 of these [364,000] positions were excepted by the Civil Service Commission itself—some because examinations were not customary or practical

<sup>131</sup> U.S. Government Policy and Supporting Positions. Printed for the use of the Committee on Post Office and Civil Service, House of Representatives, 94th Cong., 2d sess. Washington, U.S. Government Printing Office, (Nov. 8, 1976), p. iii.

<sup>132</sup> Kaufman, p. 52.

<sup>133</sup> Tolchin, Martin and Susan. To the Victor \* \* \*. New York, Random House [1971] p. 258.

<sup>134</sup> Kaufman, pp. 52-53.

<sup>135</sup> U.S. Civil Service Commission. Eighty-fourth Annual Report, for fiscal year ending June 30, 1967. Washington, U.S. Government Printing Office [1968] pp. 3-5.



for their jobs, many because they occupied temporary or part-time openings at a low level for which examinations were unnecessary or unwarranted. Nearly 82,000 foreign nationals serving outside the United States were also excepted by the Commission. Thousands of additional jobs, in such agencies as the Tennessee Valley Authority, were excepted by statute, but were in separate and independent merit systems even though not under Civil Service Commission jurisdiction. The area of excepted positions was thus not a preserve for party patronage from which party pressures excluded the Civil Service Commission; rather, it was an aggregate of relatively small pockets of employment where ordinary civil service procedures were not required or appropriate, and in which the leaders of the political parties also found few plums.<sup>136</sup>

Probably the most significant extension was to bring in the previously much sought after patronage positions of customs collectors. This transfer of positions to the competitive service was accomplished during the Johnson administration via Reorganization Plan No. 1 of 1965. Updated regulations for the Canal Zone Merit System were promulgated via Executive Order 11171 in 1964.<sup>137</sup>

In terms of change brought about by statute after 1960, the Postal Reorganization Act of 1970 (84 Stat. 719) established a new merit system independent of the Civil Service Commission. Section 1002 contains detailed provisions regulating political recommendations in the Postal Service. Aside from four excepted situations—for example, evaluations of work performance by an individual specifically requested by the Postal Service—the law prohibits explicitly political-recommending activities by all parties. Members of Congress—along with other designated officials are prohibited from making such recommendations, Postal Service employees are prohibited from receiving such recommendations, and the individual prospective employees are prohibited from soliciting such recommendations.

As noted above, the period from 1960 to the present has seen many legislative accomplishments relating to personnel matters. However, few acts related directly to the merit system. But two pieces of landmark legislation deserve mention. In 1966, for the first time since before the passage of the Pendleton Act, the general and permanent laws relating to the civil service were revised and codified (80 Stat. 378) as title 5 of the U.S. Code, titled "Government and Organization." Personnel laws had not been so reorganized since 1874. As explained in the Commission's annual report for 1966:

This enactment culminates a 10-year effort by the executive and legislative branches to codify the personnel laws. In February of 1955, the Commission on Organization of the Executive Branch of the Government (the second Hoover Commission), recommended such codification in its report on personnel and civil service. The need for codification had also been recognized by the Committees on Post Office and Civil Service of both Houses of the Congress, the Committees on the Judiciary of both Houses, the Bureau of the Budget, the Civil Service Commission, and other Government agencies. Accordingly, the Civil Service Commission directed its General Counsel to undertake the preparation of the necessary bill. . . .<sup>138</sup>

The Intergovernmental Personnel Act of 1970 (84 Stat. 1909), according to one source, represented "the most significant extension of the Civil Service Commission's functions in the past half-century. \* \* \*<sup>139</sup> As was noted in the first chapter, Congress, in this

<sup>134</sup> Kaufman, p. 52.

<sup>137</sup> Executive Order 10794 of Dec. 10, 1958, had originally established the Canal Zone Merit System; this implemented the provisions of Public Law 85-550.

<sup>138</sup> U.S. Civil Service Commission. Eighty-third Annual Report, for fiscal year ending June 30, 1966, Washington, U.S. Government Printing Office (1966) p. 9.

<sup>139</sup> Biography of an Ideal, p. 108.

legislation, outlined a series of merit principles and declared the merit approach the most effective ways in which to improve the quality of the public service at all levels. As further described in "Biography of an Ideal:"

Recognizing the importance of the personnel factor in effective government, Congress in the IPA extended Federal interest to State and local personnel administration generally, although not extending the merit standards themselves. Broad authorities were provided to build a quality public service under an intergovernmental partnership approach, including: grants for personnel management, training, government service fellowships, technical assistance, talent sharing across government lines, admission of State and local employees to Federal training, and cooperative recruiting and examining. The authority previously housed in the Department of Health, Education, and Welfare for prescribing merit standards was transferred to the Commission.<sup>140</sup>

The aspect of the merit system which received by far the most attention during the 1960's was that of equality of opportunity, particularly with respect to women and racial minority group members. The President's Committee on Equal Employment Opportunity (EEO) was established by Executive Order 10925 of March 6, 1961; it was superseded by the President's Council on EEO via Order 11197 of February 5, 1965. This was followed by another Executive order by President Johnson—Executive Order 11246 of September 24, 1965—which called for "affirmation action" to attain equal opportunity, abolished the President's Council, and transferred major responsibility for implementation and enforcement to the Civil Service Commission and the Department of Labor. Finally, equal employment opportunity became a statutory requirement with the passage of the Equal Employment Opportunity Amendments of 1972 (86 Stat. 103).<sup>141</sup> Concurrently, a series of recent Executive orders have strengthened prohibitions against discrimination on the basis of sex, and in 1967 the Commission established the Federal women's program. Subsequently, this program was placed under the agency director of EEO.<sup>142</sup>

The matter of political neutrality was also under review during this period. As described in the previous chapter, the Hatch Act had been enacted in 1939-40 in response to allegations, substantiated by the investigation of a special Senate committee, regarding political coercion and various "pernicious political activities," particularly in WPA. While there was widespread agreement in the Congress after the appearance of the Sheppard committee's report that some legislation was needed to curb political abuses of and by workers in various Federal agencies, some thought that the provisions of the Hatch Act might be unnecessarily restrictive and vague. In the ensuing years, debate in the Congress continued concerning the propriety of the Hatch Act restrictions.<sup>143</sup>

In 1966, Congress authorized the establishment of a Commission on Political Activity of Government Personnel to review the Hatch Act and make recommendations for change. Public Law 89-617.<sup>144</sup>

<sup>140</sup> *Ibid.*, p. 99.

<sup>141</sup> For a lengthier overview of the subject of EEO, see *ibid.*, pp. 102-105.

<sup>142</sup> For a discussion of "Women in the Federal Service," see *ibid.*, pp. 160-174.

<sup>143</sup> There have been various amendments to the original legislation. See the Hatch Act Proscription Against Participation by State and Federal Employees in Political Management and Political Campaigns: A Legislative History, Congressional Research Service multith, Feb. 5, 1975.

<sup>144</sup> U.S. Commission on Political Activity of Government Personnel. Report (3 vols.). Washington, U.S. Government Printing Office [1968].



As summarized by one of the Commission members, a major conclusion of the group was as follows:

The present Federal Hatch Act is confusing, ambiguous, restrictive, negative in character, and possibly unconstitutional. Changes should be made which clarify prohibitions, increase participation (though the Commission disagreed as to how much), and reflect a positive tone so that employees would be encouraged to participate in permissible activities.<sup>145</sup>

No action was taken until 1974; the Federal Election Campaign Act Amendments of 1974, Public Law 93-443, contain a provision in title IV, sec. 401, that lifts most of the restrictions from State and local government employees who had previously been subject to the Hatch Act. As of January 1, 1975, these State and local government workers could serve as officers in political parties, could solicit votes on behalf of partisan candidates, and so on down the list of activities previously prohibited under the Hatch Act's dictum of "no active participation in political management or political campaigns." The major restriction remaining on these State and local government employees, who are subject to the Hatch Act, is that they may not run as candidates in partisan elections. In the 94th Congress, the Federal Employees' Political Activities Act, H.R. 8617, extending to Federal employees substantially the same rights granted to federally funded State and local government employees as a result of the 1974 legislation, failed of enactment by veto of President Ford on April 12, 1976.<sup>146</sup>

A review of the Commission's annual reports for the decade of the sixties revealed only one entry containing the word "merit" listed under the "major developments" of the year sections; the report for 1962 had an entry titled "new vitality for the merit principle," which reported the establishment of the Commission on the Status of Women on December 14, 1961.<sup>147</sup> It should be noted that there were numerous discussions of EEO during this period.

As another example of the extent to which the basic tenets of the merit system were assumed to be secure at this time, Glenn Stahl, author of a widely used textbook in the field of public administration, wrote in his concluding section "Testimonial to 1958-1973," in "Biography of an Ideal:"

Political analysts are fond of saying that the era of civil service reform ended several decades ago, that with job patronage under "spoils" partisanship outflanked and outmoded, the spirit of reform was no longer needed. Perhaps a moral crusade was no longer necessary, but if we think of reform as change, as amendment, as revision, as improvement—some of the dictionary synonyms for the term—then surely these last 15 years have been brimming with reform.<sup>148</sup>

And the report of the merit staffing review team—Sharon report—of the Commission, reflecting on the sixties from the perspective of the midseventies, provided a passage which is worthy of quotation at length:

By the early 1960's, fears of a spoils system had abated, to be replaced by a fear of inefficiency and inflexibility. Some have characterized this new problem as the triumph of procedure over purpose. Even the National Civil Service League

<sup>145</sup> Jones, Charles O. Reevaluating the Hatch Act: A Report on the Commission on Political Activity of Government Personnel. *Public Administration Review*, v. 29, May/June 1969, pp. 252-53.

<sup>146</sup> For a summary of events during the 94th Congress regarding the Hatch Act, see Virginia A. McMurtry, *Hatch Act: Proposed Amendments*, Congressional Research Service Issue Brief Number IB75071 [1976].

<sup>147</sup> U.S. Civil Service Commission, *Seventy-ninth Annual Report*, for the fiscal year ending June 30, 1962. Washington, U.S. Government Printing Office, [1962] p. 6.

<sup>148</sup> *Biography of an Ideal*, p. 129.

observed in March 1969: "The great battles against the corruption of the Federal Service by spoils influence have been largely won." The message was clear: enforcement of civil service laws, rules, and regulations was still necessary, but the Civil Service Commission should be reorienting itself to emphasize improved personnel management results rather than procedural niceties.

This new emphasis on personnel management results rather than processes was reflected in an October 9, 1969, Presidential memorandum entitled "Responsibilities for Assuring Effective Management of Personnel Resources." Under the terms of the memorandum, each agency was required to organize its own personnel management evaluation capability so that the agency head could assure himself and the President that his agency was "striving continuously to achieve the best possible use of personnel resources." The Civil Service Commission was directed to "exercise leadership for effective personnel management evaluation" by establishing standards for agency evaluation programs, as well as by "Maintaining its own capability to make independent evaluation of agency personnel management effectiveness."

The Civil Service Commission worked actively to divest itself of its "policeman" or "enforcer" image. Civil Service Inspectors were soon no longer identified as "Inspectors." They became "Advisors" and "Evaluators." The personnel of the Bureau of Inspections were told in staff meetings and Commission issuances that their essential role was that of "Management Consultant." Their on-the-job training and developmental activities were directed toward developing expertise in management theory and consultative skills.

Inspection reports were recast. Instead of dealing primarily with the results of detailed regulatory and procedural reviews, the reports focused on the quality of the personnel program. The objective of these reports was to help managers to manage their human resources. The effort to determine adherence to regulatory requirements was deemphasized. Reviews of individual personnel transactions to assure their propriety increasingly were based on small samples. The time of Commission inspections onsite at agencies was devoted in increasing proportion to areas representing new personnel programs and public policy initiatives in Federal employment. In time, even the word "Inspection" disappeared from the Commission's organizational charts. In 1970, the Bureau of Inspections became the Bureau of Personnel Management Evaluation (BPME). In describing the responsibilities of the retitled Bureau, the functional statement assiduously avoided the term "enforcement."<sup>149</sup>

Likewise highlighting in retrospect the erosion of merit principles even as the basic stability of the system was being taken for granted, the report by the National Academy of Public Administration, prepared at the request of the Senate Select Committee on Presidential Campaign Activities, observed:

All recent Presidents and their high political aides have expressed impatience and even exasperation with career civil servants on grounds that they were resistant to change, especially in programs that a new administration urgently wanted to get done—or undone. Many political officials felt to some extent that numerous aspects of the civil service laws, regulations, policies, and practices were products of an age of simpler government, and impediments to the achievement of their broad policy goals. One device to insulate agencies from the strictures of the civil service system was to establish new agencies, totally exempt from the system (though many were later blanketed in). This was massively used by Roosevelt in his many alphabetic New Deal agencies and was more recently used in the creation of agencies in new and different fields of activity, such as the Atomic Energy Commission. Most of these exemptions from civil service were endorsed, if not insisted upon, by the Congress. Another technique was the exemption of a substantial number of key positions from the normal competitive processes, a practice formalized under Eisenhower in an exempt category then and still known as Schedule C. A third device was, and is, to superimpose above the career officers a new layer of political appointees sympathetic with the incumbent administration and empowered to overrule their career subordinates.<sup>150</sup>

<sup>149</sup> U.S. Civil Service Commission, Merit Staffing Review Team, *A Self-Inquiry into Merit Staffing*, [typed report, May 1976] pp. 63–64.

<sup>150</sup> Mosher, Frederick C. et al. *Watergate: Implications for Responsible Government*. New York, Basic Books [1974] pp. 71–72.



In closing this brief survey of events since 1960, it is interesting to note that whether by coincidence or premonition, the annual report of the Commission for 1972 was titled "Mandate for Merit." A broad conception of the merit system was provided:

Merit principles have enhanced both performance and public trust in the Federal work force. The average citizen may not fully understand all that is encompassed in the merit system—but he knows and values the fact that people who enter the Federal career service have done well on competitive examinations, open to all citizens, that measure their ability to do the work. It may sometimes cross his mind that many private employers hire their people much the same way, which is true. But the terminology remains identified with Government. Even the dictionary defines "merit system" as "a system by which appointments and promotions in the civil service are based on competence."

But the merit principles do not stop with hiring and promoting able personnel. They encompass equal employment opportunity for all races and both sexes. They include fair treatment on the job, fair pay for doing it, and fair opportunities for training, for better performance, and better jobs. In the Federal civil service, they also mean protection of individual constitutional rights and protection from coercion to provide tribute or service to partisan political cause. They help Government, as an employer, to attract, select, retain, and utilize people with demonstrated ability to serve the public well.<sup>151</sup>

Later, a passage related a theme that was to be repeated from various sources in the years immediately following, as more information on the abuses of the merit principles in the Nixon administration was coming to light as a result of the investigation by the House committee, and others: "The Civil Service Commission has no more important responsibility than to apply itself to the preservation of merit principles and their continued application in the cause of efficiency in the public service. This is our mandate for merit."<sup>152</sup>

## CONCLUSION

In 1976 the vast majority of Federal employees were under some sort of merit system. In addition to the 61 percent under the competitive service administered by the Civil Service Commission, several agencies had their own career merit systems, including the Foreign Service in the State Department, the Tennessee Valley Authority, the Federal Reserve System, the Postal Service, the Central Intelligence Agency, the Federal Bureau of Investigation, and the National Security Agency. As described above, a framework was established in the fifties to facilitate the interchange of personnel among some of these agencies. However, the "Foreword" to the 1976 edition of "Policy and Supporting Position" voiced continuing reservation as to whether the independent systems were entirely comparable to the Commission's competitive service:

When preparation of this book began in August, the Civil Service Commission requested that positions in agencies which have internal merit systems—under which appointments are made only on the basis of merit and removals are made only for cause—be excluded from this issue of "Policy and Supporting Positions" even though these agencies are outside the competitive civil service system. The committee carefully considered the Commission's request but declined to make the exclusion this year. The committee believes that until the Civil Service Commission has the overall capacity, including manpower and authority, to ensure that internal agency merit systems function fairly and effectively, the exclusion should not be made.<sup>153</sup>

<sup>151</sup> U.S. Civil Service Commission, Eighty-ninth Annual Report, fiscal year ending June 30, 1972. Washington, U.S. Government Printing Office [1973], p. 1.

<sup>152</sup> *Ibid.*, p. 3.

<sup>153</sup> Policy and Supporting Positions [1976], p. iii.



In the expansion of the merit system coverage, Presidents have played a predominant role, acting from various motivations: "Presidents undoubtedly had mixed motives concerning their last-minute extensions of the merit system. While they sincerely wished to deny the patronage prerogatives that they enjoyed to their successors, many had become truly disillusioned by their experiences with spoils and possibility repentant of their excesses."<sup>154</sup> As time passed, the comprehensiveness of the merit system with respect to general personnel matters expanded along with the number of positions covered. Kaufman has commented with regard to this phenomenon:

But the process did not stop with removal of the appointing power from politics; over the years, the Civil Service Commission extended its surveillance to dismissal, promotion, and position classification; eventually, with the aid of new legislation, the political activities of civil servants were reduced to little more than voting. A wall was erected between the Government bureaucracy and the politicians, a wall policed by the Civil Service Commission.<sup>155</sup>

Yet the patronage system never completely disappeared, despite the advance of the merit system. As an illustration of this in January of 1968 "Congressional Quarterly" presented a 17-page article titled "6,500 Patronage Jobs Open to the Nixon Administration."<sup>156</sup> Along with the decline in the number of patronage positions there was also a qualitative change in nature:

It is important to distinguish between the politics played by the civil service prior to the Civil Service Act and the kind practiced after the merit system was firmly established. Originally, civil servants engaged in political activity to further the cause of a particular candidate or group of candidates. After the installation of the merit system and the growth of agency consciousness and professionalization, the end of political collaboration was defense of the agency and its program, and was practiced by both parties. This was politics of a different kind.<sup>157</sup>

The merit system came to be more and more taken for granted, accentuating the dichotomy between theory and reality: "The higher the public official, the more vehemently must he protest patronage practices in any form in order to win the respect of the public, whose mental set rests firmly against the realities of American politics. In effect, this forces the politician to pursue a schizoid policy, leaving an enormous gap between theory and reality."<sup>158</sup>

Meanwhile, the Civil Service Commission emerged as a central personnel agency for the entire Federal Government, almost by default, as expanded duties were continually assigned to it:

Although the manner in which Presidents Eisenhower, Kennedy, and Johnson utilized the Commission contributed immeasurably to its establishment as the central personnel agency, the primary cause has been a composite of congressional attitudes, actions, and inactions. At least one President and a number of political scientists and public-administration students declared themselves in favor of a different approach, but, in the end, Congress denied the authority for a special agency sought by President Roosevelt in the 1930's and failed to enact the Clark bill in the 1950's. Without positive action to establish such an agency, there was a void that had to be filled. No one could deny that, as long as the Commission existed with the functions assigned to it, much of the Government personnel job must be done by it. But, more significant, than the denial

<sup>154</sup> Shafritz, Jay M. *Public Personnel Management: The Heritage of Civil Service Reform*. New York, Praeger [1975], p. 25.

<sup>155</sup> Kaufman, Herbert. *Emerging Conflicts in the Doctrines of Public Administration*. American Political Science Administration, v. 50, December 1956, p. 1061.

<sup>156</sup> 6,500 Patronage Jobs Open to Nixon Administration, *Congressional Quarterly*, v. 27, Jan. 3, 1969: 15-31.

<sup>157</sup> Kaufman, The Growth of the Federal Personnel System, p. 57.

<sup>158</sup> Tolchin, p. 259.

of congressional authority to abolish or radically reduce the scope of its activity was that fact that, while the experts could study and recommend and students of public administration could debate, Congress continued to assign the Commission more functions.<sup>159</sup>

This has created an institutional body with multiple and not always complementary roles. As described by Mosher:

Yet the Civil Service Commission [meaning the members of the Commission and its entire staff, headquarters, and field], has many faces: its roles are confusing and in many senses contradictory. It is at once policeman, prosecutor, defender, and judge. It is an advocate before the Congress and an agent of the Congress; a security sleuth of, and "union" for, employees; a rulemaker, an inspector, a disciplinarian, and a management consultant to other agencies; an adviser to and instrument of the President; an insurance agency; and a public relations office for the government in general. . . . The Commission has considerably shifted its emphasis in recent years. But many of the older functions, the older roles, remain. That it has been able to make this shift and still carry on its traditional responsibilities with as much grace and aplomb as it has, is a considerable achievement of its leadership and its staff.<sup>160</sup>

Ultimately, the important questions concerning the Commission and the future of the merit system—for example, whether the performance of the watchdog and leader in personnel administration functions can effectively be performed in the same agency or might best be separated—relate in turn to even more fundamental issues involving conceptions of public administration and the assessment of present and future priorities. For many years a theoretical debate has been in progress regarding the relative emphasis to be placed on further neutralization of the Federal service versus the so-called anti-isolationism trend.<sup>161</sup> The former position—advocating the ideal of a neutral career service encompassing virtually the entire Federal bureaucracy—has been the traditional thrust of the reform movement, dating back to the 19th century, and more recently reflected in the Report of the Second Hoover Commission, with the effort to draw definitively a line between politics and administration with respect to executive personnel. The anti-isolationism position does not discount contributions of the merit system, but places top priority on the need for leadership, to be reflected in the return of greater authority over personnel matters to top administrative and policy-determining officials, in other words, greater managerial discretion. This latter position found expression in the proposal of the Brownlow Commission to eliminate the Civil Service Commission and establish two units in its place: The Civil Service Administration and the Civil Service Board.

The findings of the ongoing investigations concerning recent patronage abuses will undoubtedly have an impact on the outcome of this debate. In an article appearing in the spring, 1975, issue of "Good Government" (devoted entirely to the topic "When the Merit System Was Being Subverted"), James Sundquist provided this observation, which seems an appropriate place on which to conclude this historical survey:

The balance between flexibility and control deserves a new examination. Granted all the arguments for flexibility, the events of the past half dozen years

<sup>159</sup> Harvey, p. 30.

<sup>160</sup> Mosher, Frederick C. *Features and Problems of the Federal Civil Service*, American Assembly, *The Federal Government Service*, p. 175.

<sup>161</sup> Kaufman, *Growth of the Federal Personnel System*, pp. 63–69.

make clear that a little organized subversion—taking advantage of the relaxed controls—can go a long way toward destroying all the benefits that come from flexibility, in corrupting government administration and in demoralizing the career service, reducing its recruitment appeal and its retention power, and eroding its productivity. For it is as true now as in 1883 that politicization is a synonymy not only for favoritism but also for incompetencization—and the latter, in particular, is infinitely more dangerous to our society now than then.<sup>162</sup>

The following pages entitled "Politics and the Civil Service" were excerpted from: U.S. Congress. Senate. Administration of the Civil Service System. Report to the Committee on Post Office and Civil Service. Committee Print No. 2, 85th Cong., 1st sess. Washington, U.S. Govt. Print. Off. [1957] pp. 27–40 This excerpt is from Part II: Report of the Special Consultant to the Committee, commonly referred to as the "Watson report," after its author James Watson.

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<sup>162</sup> Sundquist, James L. Where was the Commission: Another View, *Good Government*, v. 92, Spring 1975, p. 11.



## POLITICS AND THE CIVIL SERVICE

### SUMMARY STATEMENT

The Federal Government urgently needs more adequate personnel methods, including modern techniques and policies, in its employee relations. Progress, however, is still hampered by the threat of political use of appointments in the career service for patronage purposes with every change of administration. This fact has been apparent during the last 4 years in spite of the emergence of a new degree of stability in the civil service.

(1) The so-called Willis plan, developed in 1954, was a serious affront to basic career service as well as to the civil-service law by attempting to subject all career appointments and promotions at the higher levels to political clearance through the Republican National Committee.

(2) The plan interfered with the relationship between the Chairman of the Civil Service Commission and the President.

(3) The fact that the plan has not been clearly rescinded offsets recognition of some of the constructive accomplishments and brings questions regarding the basic attitude of the administration toward the career service.

There has never been a more propitious time for both parties to join in a policy to remove the career service more completely than ever before from all aspects of political influence and suspicion.

### INTRODUCTION

One of the most serious problems today is recruiting and keeping a staff adequate to the demands of modern government. The Government of the United States is put to it to attract and hold competent men and women, especially for the higher executive and scientific duties. The Government's place in the manpower market is weak. While it can not compete with private industry in paying high salaries, monetary rewards are not the only key to solving the Government's problems of employment. The greatest attractiveness of a career in the public service lies in public respect and prestige and the satisfaction of serving.

Throughout the history of American Government, the use of appointments to administrative posts as patronage has been a major barrier to efficiency and competence in the civil service and to public respect for it. Patronage appointments destroy the fundamental incentive to a career.

The Federal Civil Service Act (the Pendleton Act), became law more than 70 years ago and today covers more than 9 out of every 10 of the civilian jobs. In spite of this, efforts to use appointments to the career service as patronage have been a continuing threat throughout the service and still remains a serious problem. This has threatened the standards and prestige of the career service and fortifies the position of those who insist that the main job is to retain negative rigid controls.

In 1953 when the present administration came into office, the career civil servants of the Government were overall, a more competent and devoted group than some of the Republican leaders understood or appreciated. While some of the early actions of the administration were mistaken and not in the best public interest, the career service weathered the change of administration in a manner that demonstrated its value and stability.

Beginning in the late 1930's, the administration of that time undertook a number of modern and constructive improvements that were successful, so that there was an important degree of stability and competence in the Federal service in January 1953.

A complete change in control of so numerous and powerful a body of men and women in the vastness which the Federal Government had become, is by its very nature, difficult. There were several causes making the change of 1953 unusually so. In the first place, there was the tremendous change in the size and importance of government which had taken place during 20 years while one party had been in power. Next was the inexperience and perhaps lack of plan of the new administration regarding the civil service. In the first month after the election in 1952 the prospective Cabinet members, Budget Director, and many others slated for important offices, began working with the leaders of the outgoing administration. The President did not appoint a new Chairman of the Civil Service Commission, however, until late in March 1953. In the meantime, during the initial staffing period, when the new administration was attempting to gain control of government, it was without the guidance or policy help it could have received from this important personnel office.

The demands of elements within the Republican Party for patronage have confused the issue of legitimate political control, interfered with timely executive dealing with personnel and obscured the worthwhile programs for progressively improving the Government's system of managing its personnel. Demands for patronage are not new; neither party has a monopoly on that. Unfortunately, under the present administration, an attempt at a systematic program has developed for increasing patronage that implies a serious threat to the future of government and is contrary to what the President otherwise has shown to be his interest in improving the civil service but has not fully countermanded or repudiated.

Since 1953 the administration has had to assure itself of legitimate control of policy through its appointments to the surprisingly small number of posts, recognized as outside the career service, that provide control. It also has moved constructively to improve the career service. Unfortunately, in deference to patronage demands, it has confused all this by a contrary step backward that has been damaging to the principle of a career service, which seems to be illegal, and is clearly inconsistent with what seems to be its sincere interest in the career service. The most serious threat to the career service in many years was the Willis order or Operation People's Mandate, that subjected appointments to career positions—GS-14 or above—to a carefully devised plan of political clearance and publicity. The plan emanated from the White House and seems never to have been rescinded. It destroys the main incentive for career civil service employees, interferes with improving and efficiency and standing of the service, undermines the President's forward step of making the



Chairman of the Civil Service Commission his adviser on the career service, and stands as proof for those who insist that it is still necessary to retain all the inelastic, negative devices against old-fashioned political spoils.

This was a procedure, beginning in the spring of 1954, for regulating vacancies, encouraging active politicians to nominate, and emphasizing a record of credit for appointing these nominees. Developed in the office of Charles F. Willis, Jr., then assistant to the assistant to the President, the scheme has borne several names, including Operation People's Mandate, dynamic personnel management program, personnel procurement program, and simply—the Willis plan. Two mimeographed booklets that appeared May 17, 1954, presumably from the White House, under the title, "Operation People's Mandate," described it in a dramatic way. (See Appendix A.)

#### WILLIS PLAN

The new plan established a special assistant in each department and agency for the purpose of maintaining touch with appointments among the agency, the White House and the Republican National Committee. It was supposed to work in this way:

- (1) The special assistant would be in control of appointments to all key grades from GS-14 through GS-18 in the agency, superseding the duties and responsibilities of the regular personnel directors of the agencies.

- (2) The special assistant was to report vacancies in these career grades to the Republican National Committee.

- (3) All candidates were to be cleared for political acceptability with the emphasis on attaining the maximum political returns.

- (4) The Republican National Committee was to handle publicity on appointments.

If the arrangement had applied only to legitimate political appointments, establishing the new special assistants would have been a matter of administrative judgment. The plan did not limit the duties to this, however, and did not have as its main purpose merely gaining policy control of administration. Its purpose was to control vacancies, not only in the political offices, but also in career posts in the top grades of the career civil service. It attempted to establish a system of politically clearing appointments for the purpose of giving credit for each appointment to the Republican Senator, Congressman, and geographic area concerned. This was to show the rank-and-file of the party that the White House and the national committee were cooperating in obtaining jobs, and in particular, the highest grades of career jobs for Republicans.

#### THE LOST OPPORTUNITY

In one of the Willis booklets, the reasoning behind the plan states the disappointment that there had not been more political appointments and the pressing need to make more in order to bolster the party for the 1954 congressional elections.

In a memorandum circulated to most Government departments and agencies, Mr. Clyde A. Wheeler, Jr., special assistant in the Department of Agriculture, reported on a meeting at the White House on May 27, 1954. (Appendix B.) Present at the meeting were Charles

A. Willis, Jr., and representatives from various executive departments. Wheeler and the Willis plan

requires that all schedule C and vacancies in all key positions in grades GS-14 through GS-18 throughout the United States be placed under control of our office.

This phase of the program, according to Mr. Willis, arose because filling of schedule C and key positions throughout the executive departments in Government has fallen down very badly. \* \* \* As of March 15, 1954, out of a total of 912 positions placed in schedule C,<sup>1</sup> 700 have been filled as follows: 349 (50 percent) January 19, 1953, incumbents retained; 187 (27 percent) by other Federal employees; 164 (23 percent) from outside Government; total, 700 (100 percent) filled positions.

#### A MODERN SPOILS SYSTEM

Booklets of the Willis plan borrow many phrases of civil-service language, frequently repeating the words "qualified" and "proven ability" but without suggesting an objective method of measuring these qualities.

The campaign to put the Willis plan into effect hardly can qualify as an attempt to improve the civil service. It is, on the contrary, an attempt to make spoils of its highest grades.

The Willis plan has at least two fundamental faults:

(1) It injures the career system concept, so basic to government. It does this both internally—by lowering morale and impeding management—and externally, by adding a political factor to the traditional criteria for selecting and advancing personnel—ability, performance, and devotion to duty.

(2) It interferes with executive authority to make appointments and reduces executive responsibility for day-to-day managing and improving the personnel system.

When politics enters a personnel system, as anyone who has had experience with governments knows, it casts a deep shadow of uncertainty and suspicion over every step affecting personnel. No one can tell what takes place on the basis of politics and what on sound judgment of ability and the good of the service. Almost always there are in the service men and women who will play the political game to get ahead, regardless of injury in the long run to themselves and to the service. The extent to which some career employees scramble to obtain political backing indicates how far the partisan infection has gone. When employees believe they must find political support, their morale is sure to suffer.

There is no hiding the political taint. It quickly damages the good name of the civil service and of government in general as an employer. A career service must remain dynamic to attract competent young persons who ultimately will have to provide the talent for the higher grades. When the tests for entering, or the basis for promoting become even partly political, the ability of the service to recruit the best shrinks or disappears.

<sup>1</sup> Schedule C is the list of those positions in the Federal service which are exempt from competitive civil service laws and rules because the Civil Service Commissioner has found them to be of a policy-determining or special confidential nature.



One responsible career administrator in the Government, who has been a teacher, stated recently that in present circumstances, he could not encourage young men and women to come into the Government. He had had personal experience with the Willis plan. He was held for months in an acting, rather than a permanent capacity after he failed to follow the suggestion of the special assistant in his agency that he find a political sponsor. Finally, he got a permanent appointment anyway.

#### TOO MANY COOKS

The Willis plan has obstructed the major dealings of the executive branch with personnel, both in the White House and also in the departments and agencies.

Our Government always has been weak in its understanding of the responsibilities of executives to develop the management talents of their subordinates. Industry understands this duty more clearly. The Government, however, has slighted it, perhaps because of the short tenure of the political executives, who usually do not remain long enough to follow a program through, even if they get around to starting one. Career executives on the whole have not yet established themselves firmly enough in their responsibilities for personnel to develop this phase to the extent desirable. The Willis plan has made this problem more acute than ever by substituting the undependable patronage factor.

For 20 years it has been clear that managing personnel matters must take place within the departments and agencies and that neither the Civil Service Commission, nor the President, nor a national political committee can impose good management from above or from the outside. While they have greatly improved the quality of staffing, the group as a whole and for the most part the individual directors of personnel have not achieved the status necessary to be adequately effective.

Then along came the Willis plan, putting the special assistants for political appointments into each agency. The job of special assistant was to see that Republicans were appointed to the upper five grades, including recognized career jobs, on an unmitigated partisan basis. The special assistants superseded the directors of personnel where the five highest grades of the career service were concerned.

The special assistants of the Willis plan on the one hand and the security officers on the other squeezed the directors of personnel of the departments and agencies, who were almost the only professional personnel men in government, to the detriment and injury of the managing of personnel in the departments and agencies.

#### THE WILLIS PLAN IN THE WHITE HOUSE

One of the worst aspects of the Willis plan was its effect on the public's attitude regarding the relations between the Chairman of the Civil Service Commission and the President.

Within a few weeks after the President appointed the Chairman of the Civil Service Commission in March 1953; the President issued an order making him the President's adviser on matters of personnel. Executive Order 10452 of May 5, 1953, stated that the Chairman of

the United States Civil Service Commission shall perform the following duties.

Assist and advise the President in the execution of his duties with respect to personnel management.

Assist the President in the establishment of personnel policies and standards.

Undertake on behalf of the President, and in collaboration with the Bureau of the Budget, a program designed to raise the level of effectiveness of personnel management, improve civilian personnel systems and coordinate personnel management among the executive departments and agencies.

This Presidential order, making the Chairman of the Civil Service Commission the President's adviser on personnel matters, grew out of the program which the first Hoover Commission recommended and was considered by many to be its most important single proposal. In many ways, the resulting close relation between the Chairman of the Civil Service Commission and the President and his staff has facilitated the work of the Civil Service Commission with the agencies and aided in developing a modern program for Federal employees. It is extremely unfortunate that the Willis plan has confused this relationship in the eyes of the public, Congress, and the career service.

The plan was never publicly announced and did not come to wide public notice until half a year after it originated, when Mr. Jerry Kluttz, of the Washington Post and Times Herald, reported it. Long before Reporter Kluttz broke the story, however, there was such concern over political tests for career appointments that the President of the National Civil Service League wrote to all major department heads, firmly stating the league's opposition to any form of partisan political clearance for career appointments. (See appendix C.)

Three months after the Willis plan was put into effect, the subject of political influence in the career service was on the agenda of the Cabinet meeting at Camp David, shortly after the National Civil Service League's president had sent his first letter of protest. At that time the Chairman of the Civil Service Commission presented and discussed a three-page memorandum. Among other things this stated:

The civil service laws, rules, and the Veterans' Preference Act must be adhered to as they apply to such recruiting and resulting appointments. Political clearance cannot be a test in filling competitive positions. \* \* \* It is the policy of the administration that the career service will be protected and strengthened against political pressures. Any action on the part of any person which is contrary to this policy is a potential embarrassment to the President and opens him personally to that criticism that he is playing politics with the civil service.

This document did not become public at the time but it became known within a few weeks. On August 20, 1954, the President wrote a letter to the Chairman of the Civil Service Commission, expressing his belief in a strong career system and his insistence that promotion should be based on merit alone.

Notwithstanding President Eisenhower's letter, officials in the White House frequently revised the Willis plan, but at no time did



they modify it so as to keep it from applying to career positions. On August 25, additional memoranda on White House stationery went from the assistant to the assistant to the President, to the special assistants in the agencies, and to the Republican Senators, Congressmen, and national committee members. One of the memoranda stated that reports on positions filled under the Willis plan required the names and States of the applicants' sponsors, and that broad terms such as "cleared with the Republican National Committee" were not good enough for the record.

On November 22, 1954, after details of the Willis plan had been made public, the President signed Executive Order 10577. This was a very important order and went a long way toward removing some of the uncertainties regarding the status of the large number of employees who had entered Government during the Korean crisis and had never achieved more than indefinite status in the civil service because of action by Congress known as the Whitten amendment.

The order also emphasized strengthening Civil Service Rule IV which forbids political consideration in appointments to jobs in the competitive civil service. It stated that no discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government, either against or in favor of the employee, applicant, or eligible, because of his political affiliations. In announcing this order, however, the Chairman of the Civil Service Commission stated that it did not counteract the Willis procedure.

#### ANOTHER PROTEST

On November 30, 1954, Nicholas Kelley, president of the National Civil Service League, again wrote a letter about the conditions of the career service. This he directed to the President. Mr. Kelley said in part:

A career system of civil service by definition and by its nature cannot be part of a political spoils system, or a reservoir of political patronage. Our Federal civil service has become too great, too complex, and far too highly specialized in thousands of professional skills to be capable of being replaced with every alternating of political parties in power at Washington. Its usefulness to the alternating parties as they take office and power cannot be assured by attempting to make it bipartisan. The only means of keeping a career civil service permanently useful and of avoiding, on changes of party, crises that shatter its morale and obstruct activities of a new party taking up the responsibilities of administering the Government, is to keep it scrupulously nonpartisan \* \* \*.

We believe that although the personnel procurement procedure (the Willis plan) that \* \* \* issued from the Office of the Assistant to the President in the White House shows great effort to comply technically with the law, the Executive orders and the rules on civil service, nevertheless, it is so contrary to the nature and the spirit of a career civil service, that at best it is confusing and even demoralizing to the civil service. We believe that technically it transgresses the Executive orders, and that in principle it is faulty. For on one hand, it confuses a career civil service with party politics.



and on the other, it seems to indicate at least a degree of surrender of Executive responsibility to members of the legislative branch of the Government in finding talent for the civil service \* \* \*.

#### CABINET REACTION

No representative of the Administration, except Mr. Willis, one of the Willis Plan's principal authors, has ever publicly defended applying it to career positions. In contrast, several Cabinet members have privately stated that the plan was foolish, ill-conceived, and unworkable, and many appear to have rejected it entirely or to have ignored it when it affected career employees. One top official said that it had been in operation in his agency but he was getting rid of it. With such reactions coming from high levels, it is difficult to understand why the administration has not fully rejected it.

The plan is a blot on the present administration's record in handling the career service in spite of many constructive accomplishments. Repudiating it would have gained respect for the administration from career workers and the public.

#### OTHER AGENCIES

While the use of the Willis plan in some of the major departments was limited, this was apparently not so true in non-Cabinet organizations. Whether or not the exact Willis procedure is being followed, there is persuasive evidence that in several of the independent and regulatory agencies, political clearance is required for appointment and promotions even below grade 14 and that the special assistants dominate the management, with the personnel directors relegated to strictly routine duties.

This report is not intended as a list of suspicious political activity nor as a collection of rumors and tales of individual scandals. There is, however, sufficient material to cause concern about the managing of personnel of the Housing and Home Finance Agency. Among technically experienced individuals in this agency there has been a high turnover and politics has so affected the overall picture that the technical phases of administering personnel in HHFA are under suspicion and ridicule. There is also evidence that in some of the regulatory agencies there are serious problems of personnel and staffing concerning both regular career persons and nonstatus people in the legal and professional groups. For instance, regional directors in the National Labor Relations Board (which are career positions) have been subjected to some degree of political clearance in the geographic areas where the offices are located. One vacancy remained open many months, allegedly because the Republican Senator from the State where the office is located wanted leading industries to agree on a candidate. There are also reports indicating that some sort of political clearance of appointments was a regular feature of the general reorganizing of the NLRB.

It is not within the scope of this report to consider the problem of lawyers in the public service. There is, however, a need for careful analysis by Congress, the Executive, and leaders of the legal profession of the problem of properly filling legal posts in government. This relates not only to attracting and keeping competent legal aids but also

defining what is an adequate staff for a regulatory agency and the relation between staff members and policy problems in such an agency.

#### THE BLANKETING PROBLEM

The day is past when we can afford to blanket groups of people into regular competitive status without carefully weighing the effect on long-range career standards and problems. This is even more true of the reverse, especially if the reason for taking "status" away from individuals is based on alleged actions by previous administrations or if the purpose is merely to open jobs to reward the faithful of the new party in power.

It is hard to justify in terms of properly managing personnel, the placing of State directors of the Farmers' Home Administration of the Department of Agriculture in schedule A in 1953. Other than merely giving the Republicans places, the motives for unblanketing the jobs are obscure.

Withdrawing civil service tenure from the deputy United States marshals seems to be another example of the same sort of thing. Looking at these acts from the perspective of the long swing of the pendulum from Democratic to Republican excess, these 2 examples appear to be taking advantage of the action by President Roosevelt in 1933, in unblanketing 2 or 3 groups, including the Bureau of Foreign and Domestic Commerce. This group had been "covered" into civil service by President Hoover's Executive order of March 10, 1932.

These instances show that it is time to consider administering the civil service as a modern problem in personnel, rather than as a game between parties for the remaining odds and ends of spoils patronage. Examples like these are ridiculous and undignified in themselves and show the need for both parties to approach in a statesmanlike way the developing of a true Federal career service that will serve the entire public and be a source of pride to us all.

#### POLITICAL CONTROL

It is fundamental to the operating of American democratic government that the President, who runs the Government, shall, within the limits set by the Constitution and by Congress, both propose policy and carry it out. This requires that he must have full control over enough jobs to assure that his policies are followed. Just what jobs are necessary to control, and how many of them exist, has never been fully determined. Informed estimates suggest that control of only a surprisingly few jobs can assure control of policy, probably a fraction of 1 percent of all civilian positions in Government. It is important to point out that "policy" and "partisan" control are not always synonymous. The use of appointing power as a means of party patronage actually interferes with executive responsibility for policy and for carrying it out.

One administration leader explained the problem of control in forthright fashion. When he was Assistant Secretary of Commerce, James C. Worthy said:

In order to gain control of the machinery of government, it is necessary for a new administration to control only a relatively few jobs. These are the key positions in the organ-



ization, the positions which are truly policy determining or policy influencing and the incumbents of which are close enough to the working processes to insure the faithful adherence of the staff to the program directions laid down. In this connection, it is important to remember that by far the greater part of all governmental activities are devoid of partisan content.

The description regarding schedule C in the Willis booklets (appendix A) and in Mr. Wheeler's memorandum (appendix B) shows the tendency of responsible administrators to keep the experienced career people even in exempt positions.

#### EXPERIENCED HANDS

Within the schedule C itself, from 20 to 25 percent of the jobs have generally been vacant. This is primarily because of the inherent instability of a noncareer service. Of the positions filled, 50 percent and more of the appointees had been in government prior to 1953. The executive branch had recognized its responsibility for managing well and realized that the best available source for top level employees with the necessary competence and stability was the Government itself.

#### IN PERSPECTIVE

The major parties have a chance today to reduce, if not stop, the swing of the patronage pendulum that is so destructive of efficient management and so antagonistic to the public interest. To show that this is a problem of major, bipartisan proportions, some historical perspective is presented on the following pages.

#### A 170-YEAR-OLD PROBLEM

The struggle between the need for the competence and experience that can be produced only by continuity in service and the need for the political advantage that the parties hope to gain by making appointments on the basis of personal, partisan, and geographic considerations, is one that every President beginning with George Washington has faced. President Washington believed that political orthodoxy was necessary, and in those days the politically orthodox were the Federalists. In 1801 the first true "change of administration" occurred when President Jefferson, with what was called a Republican Party, succeeded the Federalists. At the time Jefferson's political colleagues clamored for the "lucrative" positions of public office. It is significant that more than 80 years before the first Federal civil-service law was passed, President Jefferson was concerned lest he acquire an unfavorable reputation by ruthlessly removing persons from Government posts. The press of that day carried the first articles published in America outlining the concept of a merit system and showing the value of continuity and experience over political favoritism and high turnover. William Coleman, writing in the New York Post in 1801, stated that if every change of a Chief Magistrate were to produce a change of subordinate officers and their places were filled by a new set of men with everything to learn, the means of improving government would be lost.

Government will be entirely deprived of all benefits of experience, and management of public office, perpetually shifting from one tyro in office to another, will forever be kept in infancy and weakness.

#### PATRONAGE VERSUS CIVIL SERVICE

The present Federal civil service grew out of the public demand for an end to the abuse of patronage that marked the spoils era of the 19th century. Political patronage constitutes more than merely just a threat to civil servants themselves; it threatens the effectiveness of the entire executive branch of the Government. Obviously, the career service today suffers from laws, regulations, rules, and management that are not nearly good enough for modern responsibilities. The threat of political inroads will only make the system worse by reinforcing those who wish to maintain the rigidity and the negative controls which may prevent both patronage and efficient management. It raises suspicions which handicap every phase of personnel management, including training, career development, and incentive programs. The executive who wants to improve will be held back and the executive who is hesitant will use politics as an excuse for his failures.

A politics-ridden system will seriously reduce the effectiveness of competent career personnel. To serve at his best, a man must have confidence in himself and his superiors. He must be free to present facts, regardless of whether they are pleasing or not and to express his opinions when necessary, even if they disagree with those of his bosses. This give and take is an everyday affair in business and in no way reduces the effectiveness with which subordinates carry out policies once they have been settled. When, because of politics and possible reprisals, the Government career man is afraid to express himself, not only is his usefulness as an officer of the Government diminished, but he also suffers blows to his dignity and self-respect which may lead him to leave the service altogether. Those who remain under such circumstances are less likely to be the most valuable staff members.

It is essential that a properly organized civil-service system not only protect employees from dismissal for political reasons but also provide background for developing faith and confidence in the system itself on the part of the staff.

#### BEFORE 1953

Seldom has a new administration taken power after so long a period of opposition control as when the Republicans came in during 1953. In the 20 years after President Franklin D. Roosevelt's inauguration, the Government had undergone many changes. It had increased in size by more than 400 percent; its role in the economic and social phases of national life had grown tremendously, and new kinds of work were being done by civil servants without any comparable readjustment in the personnel system.

On the other hand, the growth of the Federal civil-service system has been an evolutionary process. Probably the only truly revolutionary event in its history was the assassination of President Garfield in 1881 by a disappointed office seeker. This helped to bring about



the subsequent passage of the Pendleton Act, establishing the competitive civil-service system.

Since then, the extending of the career system, the developing of technical improvements, and the growth in size of the service have come about slowly, along with the growth in size and complexity of government. There has been no major reorganization or revolutionary civil service plan.

#### THE ROOSEVELT-TRUMAN ADMINISTRATIONS

Today, we remember few of the patronage battles of the post-1933 period. During the 1930's, with an expanding Government being staffed without adhering to civil-service procedures, there were enough jobs to meet a great portion of the demands for patronage. Nevertheless, the Democratic administration removed several groups of positions that previous administrations had put under the career system. In the years following 1936 major portions of the new staff were blanketed into civil-service status, sometimes through non-competitive examinations, sometimes without any examinations at all. These extensions came as a result both of Executive orders and, more notably, the Ramspeck Act. Blanketing groups of employees into the merit system has been the most common method for extending civil service and is a practical technique used by both parties.

President Truman's Executive orders of 1947 and 1948 were charged with being "midnight appointments" because they extended civil-service protections just prior to a presidential election. In addition, they ran counter to the traditional concepts of civil-service status. An eligible person had traditionally had civil-service status only when in a position within the classified service. When he left the protected position he lost the protection. President Truman's order provided that a person with civil-service status, moving to an exempt or non-civil-service job, would carry with him the protections of the regular civil service. While this concept is well worth considering, it had never before been a part of the United States civil-service system.

#### WHO IS A POLICYMAKER

There are other factors which added to Republican concern with the character of the civil service which the new administration was inheriting in 1953. A major group of Republicans had been outspoken in criticizing the Roosevelt-Truman policies. With the Democrats' long tenure in office and the great expansion of Government during that time, a large majority of the "career" people in Government had entered the service during the Democratic years and had inevitably worked on New Deal programs. Though their experience and competence were often beyond question, their non-partisanship was not always assured or accepted. In the case of those in relatively high-level jobs, the problem was particularly serious. Such civil servants, as the most informed and trained people in a program, were not infrequently called on to give advice and assistance to political officials and sometimes even to testify before congressional committees as experts and even as defenders of policy. Many Republicans looked upon these individuals as policymakers and advocates rather than career administrators. No ready measure for making proper distinctions was at hand.

## FROM BLACK TIE TO BLACK LIST

Finally certain political activities of career civil servants were also matters of concern to the incoming Republicans. While the Hatch Act clearly controls most political activities, it does not cover everything, and it does not specifically mention the fund-raising dinners commonly at \$100 a plate, that both parties give. Many career people had attended the \$100 Jefferson-Jackson Day dinners of the Democratic Party. The seating lists of these affairs are published so that a career man who attends, knows that he is giving public notice that he has taken part in a partisan activity. No doubt many of the individuals involved felt that as long as attendance was not illegal, it was one of their individual rights if they wanted to attend. There are instances, however, of persons having gone because it was suggested to them by their bosses that it was "the right thing to do." In some agencies, a canvass was made to sell tickets. In one, a representative of the head of the agency made ticket-selling visits to all top-level career employees. The implications of these examples did not go unnoticed by the more politically minded elements in the Republican Party in 1953. A list of career persons who had attended these Democratic functions was prepared and was actively circulated as a form of blacklist. There are several instances of Republican administrators who promoted career persons on the basis of confidence in their ability, despite their being identified as \$100-a-plate diners. Those administrators were subjected to strong criticism from other Republican officials and even to pressure to remove the civil servants concerned.

There is real doubt as to whether a career man who recognized the value to his job of stability and public confidence should publicly display his partisan interests. Certainly pressure on career workers to participate in such partisan affairs is improper. On the Republican side, however, the blacklist was a questionable action which interfered with the authority of departmental executives in their responsibility for running their own agencies. It was unfair to career civil servants because it imposed an ex-post-facto standard—attempting to punish them for acts that were not prohibited.

## THE PLUS LEDGER

On the positive side, there were progressive accomplishments:

The foundations of a modern personnel system were laid.

A system for recruiting college graduates for administrative careers was inaugurated.

Operating responsibility for personnel management was recognized by establishing personnel officers in the departments.

Several agencies outside civil service developed outstanding career personnel systems—notably TVA.

Civil Service Chairman became the administrative head for running the Civil Service Commission.

Thousands of the persons hired during the 1930's and 1940's were not partisan and had come into Government because of the availability of jobs, the opportunity for interesting work, and the challenge of the public service.

Many of these persons had brought with them training and an interest in public service which with their subsequent experience,



provided the real backbone of competence and stability the career service had in 1953 and still has, and without which any administration would find day-to-day governing impossible.

#### SUMMARY

(1) Government, like business, must be staffed on a stable career plan, under a system which can attract and retain competent people from all major fields of activity. The service must operate so that it is deserving of, and acquires, public confidence and understanding and the strong support of both major political parties.

(2) The Federal service by 1953 had a stronger and more competent career service than at any previous change of administration.

(3) Many actions of the Democratic administrations from 1933 to 1952 provided seeds of apprehension on the part of the new administration in 1953.

(4) The experience of the Federal career service since 1953 has been reassuring so far as the stability of the career service is concerned.

(5) The Republicans faced three major problems regarding civil service:

(a) Getting control;

(b) Obtaining long-sought constructive improvements in personnel management;

(c) Dealing with the overwhelming demands for patronage by a party long out of power and lacking in experience at managing the tremendous Federal machine.

(6) A personnel program (the so-called Operation People's Mandate or Willis plan) which constituted a serious setback for the career civil service was developed under White House auspices and allowed to stand. It would have politicalized the career service by subjecting all top career posts to political clearance.

It injected a degree of political and legislative interference into areas of executive responsibility in violation of the principles of good management as well as the spirit of the Constitution.

It undercut the position of the Chairman of the Civil Service Commission in his role as adviser to the President.

It seriously reduced the prestige and effectiveness of agency personnel directors and created unfortunate confusion and suspicion throughout the entire career service.

(7) Under this or any other patronage program, the authority of the executive is limited and his responsibility diluted. Also, negative devices for civil-service protection are maintained to the detriment of more progressive management.

#### GENERAL RECOMMENDATIONS

(1) The President should restate the basic career policy and clearly withdraw the Operation People's Mandate or Willis plan.

(2) Both political parties should pledge themselves to respect the integrity, prestige, and public value of the career service.

(3) The process for moving positions in and out of civil-service status must be revised in a manner to maintain public confidence and career morale.

(4) Every phase of the managing of the career service must be made dynamic, more alert to the staffing needs of Government and more carefully planned, in terms of manpower, problems, and principles of modern personnel management.





# PART II—STATISTICAL SURVEY ON THE EXTENSION OF THE COMPETITIVE CIVIL SERVICE MERIT SYSTEM, 1884-1975, AND SUPPLEMENTARY NOTES AND TABLES ON THE COMPETITIVE AND EXCEPTED SERVICE SYSTEMS

[By James P. McGrath, Analyst in American National Government, Government  
Division, February 9, 1975]

TABLE 1.—EXTENSION OF COMPETITIVE CIVIL SERVICE, 1884-1975 <sup>1</sup>

Year	Total U.S. population (thousands) <sup>2</sup>	Total U.S. work force (thousands) <sup>3</sup>	Total Federal civilian employees <sup>4</sup>	Federal employees under competitive civil service <sup>5</sup>	Percent of Federal employees under competitive civil service <sup>6</sup>	Federal employees as a percentage total population	Federal employees as a percentage of total U.S. work force
1884	55,879		131,208	13,780	10.5	0.2348	
1885	56,658			15,590			
1886	57,938			17,273			
1887	59,217			19,345			
1888	60,496			22,577			
1889	61,775			29,650			
1890	63,056			30,626			
1891	64,361	22,811		33,873	20.4	.2579	0.7100
1892	65,666	23,380	166,000	37,523	21.9	.2604	.7140
1893	66,970	23,949	171,000	43,915	25.0	.2629	.7178
1894	68,275	24,518	176,000	45,821	25.5	.2636	.7175
1895	69,580	25,087	180,000	54,222	28.7	.2716	.7366
1896	70,805	25,656	189,000	87,044			
1897	72,189	26,224		85,886	44.7	.2659	.7166
1898	73,494	26,793	192,000	89,306			
1899	74,700	27,362		93,144	44.8	.2784	.7446
1900	76,094	27,931	208,000	94,893			
1901	77,585	28,500		106,205	41.5	.3299	.8746
1902	79,160	29,268	256,000	107,990			
1903	80,632	30,012		135,453	45.0	.3733	.9771
1904	82,165	30,804	301,000	154,093	53.0	.3529	.9219
1905	83,820	31,548	290,858	171,807	57.2	.3579	.9256
1906	85,437	32,408	300,000	184,178	56.4	.3815	.9809
1907	87,000	33,321	326,855	194,323	57.5	.3873	.9848
1908	88,709	34,295	337,751	206,637	58.7	.3968	1.0049
1909	90,492	35,039	352,104	234,940	63.9	.4155	1.0509
1910	92,407	35,855	376,794	222,278	57.9	.4155	1.0423
1911	93,868	36,850	384,088	222,657	58.2	.4165	1.0402
1912	95,331	37,623	391,350	217,392	55.0	.4143	1.0885
1913	97,227	38,081	395,460	282,597	60.1	.4823	1.2100
1914	99,118	38,832	469,879	292,460	60.6	.4862	1.2201
1915	100,549	39,564	482,721	292,291	61.3	.4734	1.1977
1916	101,966	39,774	476,363	296,926	61.8	.4707	1.1937
1917	103,266	40,238	480,327	326,899	63.1	.5006	1.2709
1918	103,203	40,742	517,805	642,432	70.0	.8885	2.1862
1919	105,512	41,980	917,760	592,961	70.4	.8056	2.0423
1920	106,466	41,239	842,214	497,603	73.0	.6490	1.6565
1921	108,541	41,720	691,116	448,112	79.7	.5177	1.3279
1922	110,055	42,341	562,252	420,688	79.7	.4788	1.2333
1923	111,950	42,772	527,517	411,398	79.7	.4600	1.1803
1924	114,113	43,699	515,772	415,593	79.7	.4565	1.1722
1925	115,832	44,502	521,641	423,538	79.5	.4592	1.1789
1926	117,399	45,196	532,798	422,300	79.9	.4497	1.1519
1927	119,038	45,885	528,542	422,998	80.2	.4427	1.1306
1928	120,501	46,634	527,228	431,763	79.8	.4481	1.1419
1929	121,770	47,367	540,867	445,957	79.7	.4590	1.1318
1930	123,077	49,440	559,579	462,083	79.6	.4712	1.1591
1931	124,040	50,080	580,494	468,050	79.6	.4740	1.1606
1932	124,440	50,680	588,206	467,161	80.1	.4684	1.1379
1933	125,579	51,250	583,196	456,096	79.7	.4550	1.1036
1934	126,374	51,840	572,091	450,592	66.9	.5325	1.2823
1935	127,250	52,490	673,095	455,229	63.3	.6434	1.3539
1936	128,053	53,140	719,440	498,725	60.5	.6438	1.5338

See footnotes at end of table.

TABLE 1.—EXTENSION OF COMPETITIVE CIVIL SERVICE, 1884-1975 1—Continued

Year	Total U.S. population (thousands) <sup>2</sup>	Total U.S. work force (thousands) <sup>3</sup>	Total Federal civilian employees <sup>4</sup>	Federal employees under competitive civil service <sup>5, 6</sup>	Percent of Federal employees under competitive civil service <sup>6</sup>	Federal employees as a percentage total population	Federal employees as a percentage of total U.S. work force
1937	128, 825	54, 320	841, 664	532, 073	63. 2	. 6528	1. 5495
1938	129, 825	54, 950	851, 926	562, 909	66. 1	. 6554	1. 5504
1939	130, 880	55, 600	920, 310	622, 832	67. 7	. 7029	1. 6552
1940	131, 954	56, 180	1, 014, 117	726, 827	72. 5	. 7684	1. 8051
1941	133, 121	57, 530	1, 370, 110	990, 233	72. 9	1. 0292	2. 3816
1942	133, 920	60, 380	2, 206, 970			1. 6480	3. 6551
1943	134, 245	64, 560	3, 157, 113			2. 3518	4. 8902
1944	132, 885	66, 040	3, 312, 256			2. 4926	5. 0155
1945	132, 481	65, 481	3, 769, 646			2. 8454	5. 7569
1946	140, 054	60, 970	2, 722, 031			1. 9436	4. 4645
1947	143, 446	61, 758	2, 128, 648	1, 733, 019	81. 4	1. 4839	3. 4468
1948	146, 093	62, 080	2, 090, 732	1, 750, 823	83. 7	1. 4311	3. 3678
1949	148, 665	62, 903	2, 109, 642	1, 802, 708	85. 4	1. 4191	3. 3538
1950	151, 234	63, 858	1, 966, 448	1, 687, 594	85. 8	1. 3003	3. 0794
1951	153, 384	65, 117	2, 486, 491	2, 175, 668	87. 5	1. 6211	3. 8185
1952	155, 761	65, 730	2, 603, 267	2, 246, 446	86. 3	1. 6713	3. 9605
1953	158, 313	66, 560	2, 470, 963	2, 137, 705	86. 5	1. 5608	3. 7124
1954	161, 191	66, 993	2, 346, 718	1, 991, 261	84. 9	1. 4559	3. 5029
1955	164, 303	68, 072	2, 378, 000	2, 004, 814	86. 6	1. 4473	3. 4934
1956	167, 259	69, 409	2, 410, 000	2, 042, 007	85. 1	1. 4409	3. 4722
1957	170, 333	69, 729	2, 439, 000	2, 067, 285	85. 6	1. 4319	3. 4978
1958	174, 149	70, 275	2, 405, 000	2, 032, 944	85. 3	1. 3810	3. 4223
1959	177, 135	70, 921	2, 399, 000	2, 042, 034	85. 7	1. 3543	3. 3826
1960	179, 979	72, 142	2, 421, 000	2, 050, 939	85. 5	1. 3452	3. 3559
1961	182, 992	73, 031	2, 484, 000	2, 096, 638	86. 1	1. 3574	3. 4013
1962	185, 771	73, 442	2, 539, 000	2, 159, 049	85. 9	1. 3667	3. 4571
1963	188, 483	74, 571	2, 548, 000	2, 164, 163	85. 6	1. 3518	3. 4169
1964	191, 141	75, 830	<sup>9</sup> 2, 500, 503	<sup>10</sup> 2, 153, 658	86. 1	1. 3082	3. 2975
1965	193, 526	77, 178	2, 527, 915	2, 154, 992	85. 2	1. 3062	3. 2754
1966	195, 576	78, 893	2, 759, 019	2, 367, 100	85. 8	1. 4107	3. 4972
1967	197, 457	80, 793	3, 002, 461	2, 485, 863	82. 8	1. 5206	3. 7162
1968	199, 399	82, 272	3, 055, 212	2, 569, 752	84. 1	1. 5322	3. 7136
1969	201, 385	84, 240	3, 076, 414	2, 549, 506	82. 9	1. 5276	3. 6520
1970	203, 810	85, 903	2, 981, 574	2, 453, 292	82. 3	1. 4629	3. 4709
1971	206, 212	86, 929	2, 922, 841	2, 430, 144	83. 1	1. 4174	3. 3623
1972	208, 230	88, 991	2, 865, 193	1, 736, 706	<sup>11</sup> 60. 6	1. 3760	3. 2196
1973	<sup>12</sup> 209, 860	91, 040	2, 824, 244	1, 717, 140	60. 8	1. 3458	3. 1022
1974	211, 389	93, 240	2, 893, 118	1, 764, 845	61. 0	1. 3686	3. 1029
1975	213, 137		<sup>13</sup> 2, 896, 944	1, 772, 930	61. 2	1. 3592	

<sup>1</sup> Blank space denote years for which figures are not available.<sup>2</sup> Source: U.S. Department of Commerce, Bureau of the Census, Historical Statistics of the United States—Colonial Time to 1957, Washington, 1960, p. A 1-16. (For years 1884-1957.)<sup>3</sup> Source: Total U.S. work force figures for 1890-1928 based on "Current Population Surveys" (Monthly Report on the Labor Force) Bureau of the Census, U.S. Department of Commerce, See: Lebergott, Stanley, Manpower in Economic Growth: The American Record since 1800. New York, McGraw-Hill, Inc., 1964, pp. 512 and 522.<sup>4</sup> Source: U.S. Commission on the Organization of the Executive Branch of the Government, Report on Personnel and Civil Service (February 1955), pp. 97-98; U.S. Civil Service Commission, annual reports (1955-63). (For years 1884-1963.)<sup>5</sup> The competitive service includes all civilian positions in the executive branch of the Federal Government that are not specifically exempted by or pursuant to statute, or by the Civil Service Commission. It also includes all positions in the legislative and judicial branches which are specifically made subject to the civil service laws by statute. (Bureau of Census, "Historical Statistics of the United States—Colonial Times to 1957," p. 697.)<sup>6</sup> Ibid.<sup>7</sup> Source of 1929-74 data: Division of Employment and Unemployment Statistics, Bureau of Labor Statistics, U.S. Department of Labor.<sup>8</sup> Source of 1958-73 data: U.S. Department of Commerce, Social and Economic Statistics Administration, Bureau of the Census, Washington, U.S. Government Printing Office, 1973, p. 5.<sup>9</sup> Source of 1964-75 data: Bureau of Manpower Information Systems, Manpower Statistics Division, U.S. Civil Service Commission. Figures include all paid civilian employees except those in the CIA and NSA.<sup>10</sup> Source of 1964-75 data: Bureau of Manpower Information Systems, Manpower Statistics Division, U.S. Civil Service Commission. Figures include all paid civilian employees except those in the CIA and NSA.<sup>11</sup> Effective July 1, 1971, all employees of the U.S. Postal Service were converted from the competitive service to the excepted service under the authority of Public Law 91 375 (84 Stat. 719, at 728 et seq.), approved Aug. 12, 1970.<sup>12</sup> Figures for years 1973, 1974, and 1975 supplied by the Statistical Information Section, Population Division, U.S. Bureau of the Census.<sup>13</sup> Figures given are as of June 30, 1975.

## SUPPLEMENTARY NOTES

When dealing with Civil Service Commission statistics on Federal employees, especially for the early years detailed by the preceding chart, a cautionary note is in order. While glaring incongruities are rare insofar as numbers provided are concerned, certain inconsistencies are present. The problem has been graphically pointed out by Paul P. Van Riper in his *History of the United States Civil Service*, a landmark study on the growth and extension of the competitive civil service system. Van Riper points out instances where the Commission has contradicted its own findings, on occasion, insofar as tabulations of Federal employees are concerned. He notes, for instance, that while the Commission takes special pride in the accuracy of its tabulations on the total number of Federal employees for the year 1891, Commission figures for that very same year were variously reported as 166,000 and 183,488. The Commission itself then goes on to state the following about its tabulation procedures:

"A portion of the force of the civil service consisting of laborers and temporarily engaged, of agents in the secret service, and of others paid out of 'lump' or contingent appropriations, is not borne upon the Department rolls."<sup>1</sup>

Van Riper notes that such inconsistencies were apparent for almost every year between 1883 and World War I, and that there are similar inconsistencies, though less frequent, for the years between World War I and 1933. It is impossible to state how significant some of these "understatements" by the Commission may have been, since tabulations on many of the excluded categories of employees unfortunately belong to the ages. Additional confusion about tabulations of Federal employees has arisen over the years, since other Federal agencies—notably the Census Bureau and the Bureau of Labor Statistics—also disseminate statistics on the Federal work force, and these frequently have differed from those provided by the Civil Service Commission because of differing sampling and statistical approaches employed. Since 1955, however, all agencies have relied on Commission-supplied figures for tabulating categories of Federal employees, and inconsistencies have since been minimized.

## A STATISTICAL OVERVIEW

Any table which traces growth in U.S. population, U.S. work force, Federal civilian employment, and competitive civil service merit system, over a ninety year time span, invites abundant statistical comparisons and contrasts. This is especially true since the trajectory of growth in all categories has been dramatic and profound, with population rising from 55 million in 1884 to 213 million in 1975; total work force from 22 million to 93 million; Federal civilian employees from 131,000 to 2,896,000; and competitive service employees from 13,000 to over 2,500,000 (1969). These totals, moreover, at first glance appear so awesome and ever ascending, that they tend to obscure the fact that the trajectory of growth has not always been straight line, but includes some significant periods of reversals, declines, and stasis, as will be detailed herein.

Herbert Kaufman in his *"Growth of the Federal Personnel System: A Profile of the Federal Civil Service"*<sup>2</sup> make some dramatic comparisons of the Federal civilian work force with earlier population levels in American history. In George Washington's time, for instance, the total U.S. population of some 3,500,000 was not much greater than the 1966 number of Federal civilian employees, and considerably less if total U.S. uniformed military personnel were included in the total. Kaufman points out that if the ratio of Federal employees to total population in George Washington's day had been the same as in recent times (Kaufman uses the 1963 ratio wherein 2,500,000 Federal employees constituted 1.3 percent of the total U.S. population), there would have been about 45,000 Federal civilian employees. In fact, however, there were only 350 Federal employees at the start of Washington's administration and only about 2,100 as late as 1801. As late as 1861 at the outset of the Civil War, moreover, there were only 49,000 Federal civilian employees, or less than two-tenths of 1 percent of the population which had then risen to 31 million. This ratio barely increased right up to the end of

<sup>1</sup> Van Riper, Paul P. *History of the United States Civil Service*. White Plains, New York, Row Peterson and Company, 1958, p. 59.

<sup>2</sup> American Assembly. *The Federal Government Service*. 2d Ed. [Edited by Wallace S. Sayre] Englewood Cliffs, New Jersey, 1965, 245 p.



the century, since the 208,000 member Federal work force in 1899 still comprised under three-tenths of 1 percent of a population which has grown to 76 million.

The ratio of Federal employees to total U.S. population expressed in proportional terms is even more striking: in George Washington's time it was 10,000 to 1; in 1861 it 630 to 1; in 1899 it was 360 to 1; in 1932 it was 213 to 1; in 1960 it was 74 to 1; and in 1975 it was 73.5 to 1. In 1965, moreover, of the 2,500,000 persons in the Federal service fully three-quarters occupied positions established and filled within the prior 30 years.

The growth of the competitive civil service merit system in Federal employment represents another dramatic statistical story. The number of Federal employees in the competitive system nearly tripled during the system's first 10 years. In 1884, 13,780 or 10.5 percent of Federal employees were under the new system; in 1894 the number had risen to 45,821 or 25.5 percent. In 1897, just three years later, the percentage had more than quadrupled to 44.7 percent, or 85,886 Federal employees. In 1909 the last year of Theodore Roosevelt's term, the competitive system encompassed some 234,940 Federal employees or 63.9 percent. Van Riper points out that if laborers employed under various types of registration systems are included, fully 67 percent of all Federal employees in 1909 were under some form of merit system. The 1920's were a period of sustained growth for the competitive system. In 1927 some 422,000 of approximately 527,000 Federal employees—80 percent of the total—were under the competitive system.

The competitive service suffered its first sustained decline during the years of economic depression in the United States. The wholesale exception of the New Deal Alphabet Agencies and temporary emergency agencies from the competitive system, taken together with Congressional antipathy to further extensions (Congress passed legislation exempting 60 agencies from the competitive system, and included only 5 from 1932-1937.<sup>3</sup> By 1938, however, in the twilight period just before the onset of World War II, the competitive system began to recover, rapidly and permanently. In 1938, the system had advanced to 66.1 percent of all Federal employees; by 1941 the figure had risen to 72.9 percent; and by the immediate post-war period (1951) the figure had reached its high-water mark of 87.5 percent. For the next 20 years fluctuations in competitive system enrollment were statistically negligible. It was not until 1971 when employees of the U.S. Postal Service were converted from the competitive service to the excepted service that the percentage of competitive system employees dropped below 80 percent.

#### GROWTH PATTERNS: FEDERAL VERSUS STATE AND LOCAL GOVERNMENT EMPLOYEES

One of the more enduring myths about the Federal U.S. work force is that it has been steadily advancing as a percentage of U.S. total population and as a percentage of total U.S. work force. Both ratios, in fact, except for the wartime experience, (described hereinafter) show a remarkable degree of stasis from the years 1947 through 1966 and an actual overall decline in the years from 1968 to the present. From 1947 to 1966, for instance Federal employees as a percentage of total population moved in a very narrow range indeed. In 1947 Federal employees comprised 1.4 percent of the total population, in 1966, 1.42 percent. In 1947 Federal employees comprised 3.44 percent of the total U.S. work force, in 1966, 3.49 percent. In 1968 Federal employees comprised 1.53 percent of the total U.S. population, in 1975, 1.35 percent. In 1968 Federal employees comprised 3.71 percent of the total U.S. work force, in 1974, 3.10 percent. The myth results in part, perhaps, because of a widespread confusion regarding categories of government employees. Many people confuse Federal government employees with state and local government employees. It is the latter category of government employee—not Federal government—which has experienced sustained and dramatic growth both in absolute numbers and absolute percentages in recent years, as shown by the following table.

<sup>3</sup> Van Riper, Paul P. *History of the United States Civil Service*. White Plains, New York. Row Peterson & Co., 1958, p. 320.



TABLE 2.—NUMBER OF STATE AND LOCAL GOVERNMENT EMPLOYEES, 1960-74; STATE AND LOCAL GOVERNMENT EMPLOYEES AS A PERCENTAGE OF TOTAL U.S. POPULATION AND AS A PERCENTAGE OF TOTAL U.S. WORK FORCE <sup>1</sup>

Year:	State and local government employees	Percentage of total U.S. population	Percentage of total U.S. work force
1960.....	5,570,000	3.09	7.72
1961.....	5,845,000	3.19	8.00
1962.....	5,958,000	3.20	8.11
1963.....	6,282,000	3.33	8.42
1964.....	6,586,000	3.44	8.68
1965.....	6,937,000	3.58	8.98
1966.....	7,263,000	3.71	9.20
1967.....	7,455,000	3.77	9.22
1968.....	7,879,000	3.95	9.57
1969.....	8,160,000	4.05	9.68
1970.....	8,528,000	4.18	9.92
1971.....	8,806,000	4.27	10.13
1972.....	9,177,000	4.40	11.31
1973.....	11,353,000	5.40	12.57
1974.....	11,794,000	5.80	12.64

<sup>1</sup> U.S. Department of Commerce, Bureau of the Census, public employment in 1972 and 1974. Computations based on figures provided by the Bureau of Labor Statistics, Division of Employment and Unemployment.

As demonstrated by Table 1, the trajectory of growth in state and local government employment from 1951 to 1974 (the latest year for which figures are available), both as a percentage of total U.S. population and as a percentage of total U.S. work force, has been straight line and highly accelerated. The total number of state and local government employees in 1974 at 11,794,000 is more than three times larger than the Federal work force at its all time high of 3,769,646 during the World War II mobilization peak in 1945.

#### THE WARTIME EXPERIENCE

The most dramatic short-term increases in numbers of Federal Civilian employees occurred during the wartime years. Increases were especially massive during World Wars I and II, when the numbers doubled and quadrupled, respectively, but much less so during the Korean War and Vietnam conflict, which, unlike the earlier experiences, required far less than total mobilization, militarily, and on the domestic front. Increases in Federal civilian employment during the Korean War and the Vietnam conflict were on the order of approximately 25 percent. For purposes of comparison, the years cited for the Korean War are 1950-1952, and for the Vietnam conflict, 1964-1969. The end years cited in both instances represent the years when active hostilities ceased and peace talks began. For both World War I and II, the periods cited represent the full historical time span for both wars, 1914-1918 and 1939-1945, respectively. The year 1939 is cited as the onset of World War II for comparison purposes, even though American involvement did not occur until 1941, since the dramatic pre-war buildup in Executive Branch staffing commenced early in 1939, and was in clear anticipation of U.S. entry into the war. The rise in Federal civilian employment for the four wartime periods is as follows:

TABLE 3.—GROWTH OF FEDERAL CIVILIAN EMPLOYMENT DURING WARTIME <sup>1</sup>

	Number of Federal civilian employees	
	From	To
World War I, 1914-18.....	482,721	917,760
World War II, 1939-45.....	920,310	3,769,646
Korean war, 1950-52.....	1,966,448	2,603,267
Vietnam conflict, 1964-69.....	2,500,503	3,076,414

<sup>1</sup> U.S. Civil Service Commission, Bureau of Manpower Information Systems, Manpower Statistics Division.

Perhaps the most arresting of all statistics relating to increased Federal civilian employment occurred during World War II. The awesome extent of domestic mobilization is best borne out by the following: In 1939, Federal civilian employment amounted to 920,000 or seven-tenths of 1 percent of the nation's population of 130 million. By 1945, however, the nation's 3,769,000 Federal civilian employees represented 2.8 percent of the total U.S. population and 5.7 percent of the total U.S. work force. The 1945 figures, both in absolute numbers and absolute percentages, represents the highest totals, by a very wide margin, for Federal civilian employment in the nation's history.

#### EXTENSION OF THE COMPETITIVE CIVIL SERVICE MERIT SYSTEM

The table which follows attempts to put the myriad number of competitive service extensions into some type of perspective. The table does not purport to be an inclusive listing of all legislation, executive orders, and other authorities by which the competitive service was extended, even for the time span cited. The historical record is too confusing for that. In too many cases, information about early extensions of the system is nonexistent. In other instances, the information is so fragmentary and incomplete, that inclusion was not deemed helpful. Some of the extensions cited in the table are somewhat imprecise about date and number of Federal employees affected, but were included because they shed some light on the overall growth of the system. For these reasons, and because certain extensions were revoked in whole or in part by subsequent Presidential order or legislation, the totals given must be carefully qualified.

TABLE 4.—*Extension of competitive civil service merit system by legislation, executive order and civil service rules and regulations, 1884-1952\**

BY LEGISLATION		Number
Act of Congress, January 16, 1883: (Pendleton Act) (22 Stat. 403)-----		13,780
Act of Congress, ——— 1920: District of Columbia Police Department, Fire Department and Rent Commission-----		-----
Act of Congress, March 3, 1927: Bureau of Customs and Bureau of Prohibition -----		-----
Act of Congress, April 27, 1935 (Public Law 46): Soil Conservation Service -----		10,328
Act of Congress, August 14, 1935 (49 Stat. 620) Social Security Bureau---		-----
Act of Congress, June 29, 1936 (Public Law 835): United States Mari- time Commission-----		894
Act of Congress, May 23, 1938 (52 Stat. 421): The National Archives----		293
Act of Congress, June 1938 (52 Stat. 1076): Post Office Department (postmasters at first, second and third offices)-----		10,271
Act of Congress, August 7, 1939: Administrative Office of the U.S. Courts -----		-----
Act of Congress ———, 1939 (Department of Justice Appropriations Act: Five Divisions of the Department of Justice-----		-----
Act of Congress, July 2, 1940 (Public Law 719, 76th Cong.): District of Columbia Unemployment Compensation Board-----		118
Act of Congress, November 26, 1940 (Public Law 880, 76th Congress): Ramspeck Act-----		81,618
Act of Congress, December 20, 1941 (Public Law 363, 77th Cong.): District of Columbia Board of Public Welfare-----		966
Act of Congress, ———, 1947 (Public Law 79-731): 3rd Class Post- masters and Special Delivery Messengers, U.S. Post Office Depart- ment -----		7,286
Act of Congress, ———, 1947 (Public Law 79-731): Farmers Home Administration, U.S. Department of Agriculture-----		7,191

\* Sources: (1) U.S. Commission on the Organization of the Executive Branch of the Government, Task Force Report on Personnel and Civil Service, Washington, U.S. Govt. Print. Off., 1955. (2) Van Riper, Paul P. History of the United States Civil Service, White Plains, New York, Row Peterson & Co., 1958, 588 p. (3) American Assembly The Federal Government Service, 2d Ed. [Edited by Wallace S. Sayre] Englewood Cliffs, New Jersey, Prentice-Hall, 1965, 245 p. (4) U.S. Civil Service Commission, History of the Federal Civil Service—1789 to the Present, Washington, U.S. Govt. Print. Off., 1941, 162 p. (5) Stewart, Frank Mann. The National Civil Service Reform League, Austin, Texas, University of Austin Press, 1929, 304 p.

## BY EXECUTIVE ORDER

Executive Orders dated November, 1884 through February, 1885 by President Arthur: Classifications of various positions in Executive Branch	1,000
Executive Order dated ———, 1889 by President Cleveland: Railway Mail Service and various other positions in Executive Branch	5,000
Executive Order dated ———, 1892 by President Harrison: Indian Service	—
Executive Order dated ———, 1892 and Executive Order dated ———, 1893 by President Harrison: U.S. Fish Commission and U.S. Weather Bureau	400
Executive Order dated ———, 1893 by President Harrison: Classification of various positions in Executive Branch	7,000
Executive Order of May 6, 1896 by President Cleveland: Classifications of various positions in Executive Branch	32,000
Executive Order of November 27, 1901 by President Roosevelt: Rural Free Delivery System	9,000
Executive Order of ———, 1904 by President Roosevelt: Isthmian Canal Commission	—
Executive Order of ———, 1906 by President Roosevelt: Deputy Collectors of Internal Revenue, Internal Revenue Bureau	—
Executive Order of ———, 1908 by President Roosevelt: Classification of Fourth Class Postmasters, U.S. Post Office Department in the 14 States north of the Ohio River and East of the Mississippi	15,488
Executive Order of ———, 1912 by President Taft: Fourth Class Postmasters not covered by the 1908 Executive Order of President Roosevelt (Order abrogated by President Wilson)	35,000
Executive Order of December 7, 1912 by President Taft: Positions in U.S. Navy Yards	20,000
Executive Order of ———, 1927 by President Hoover: Bureau of Prohibition	—
Executive Order of ———, 1927 by President Coolidge: Village Carrier positions in U.S. Post Office Department	418
Executive Order of ———, 1927 by President Coolidge: Laborer positions in first, second and third-class post offices	548
Executive Order of ———, 1931 by President Hoover: Positions in the Veterans Administration	1,635
Executive Order 5817, March 10, 1932 by President Hoover: Bureau of Foreign and Domestic Commerce	192
Executive Order 5859, June 21, 1932 by President Hoover: Treasury	191
Executive Order 6134, May 18, 1933 by President Roosevelt: Farm Credit Administration	969
Executive Order 6758, June 29, 1934 by President Roosevelt: Farm Credit Administration	1,660
Executive Order 7195, Sept. 26, 1935 by President Roosevelt: (as amended by Executive Order 7223, Nov. 9, 1935): Civilian Conservation Corps	809
Executive Order 7458, Sept. 26, 1936 by President Roosevelt: Rural Electrification Administration	288
Executive Order 7732, Oct. 27, 1937 by President Roosevelt: United States Housing Authority	388
Executive Order 7852, March 29, 1938 by President Roosevelt: Lighthouse Service	194
Executive Order 7916, June 24, 1938 by President Roosevelt: Various positions in Executive Branch	17,726
Executive Order 8383, March 28, 1940 by President Roosevelt: Interior (Office of Indian Affairs)	456
Executive Order 8699, March 1, 1941 by President Roosevelt: Federal Deposit Insurance Corporation	475
Executive Order 8811, June 30, 1941 by President Roosevelt: Office of Government Reports (Executive Office of the President)	297
Executive Order 8886, Sept. 3, 1941 by President Roosevelt: Coast Guard	181



Executive Order 8939, November 13, 1941 by President Roosevelt: Farm Security Administration -----	1, 104
Executive Order 8952, November 27, 1941 by President Roosevelt: Various positions in Executive Branch -----	1, 282
Executive Order 9807, November 29, 1946 by President Truman: Various positions in Executive Branch -----	354
Executive Order 10080, September 30, 1949 by President Truman: Various positions in Executive Branch -----	4, 248
Executive Order 10157, August 28, 1950 by President Truman: Various positions in Executive Branch -----	16, 520
Executive Order of -----, 1952 by President Truman: Various positions in the Bureau of Internal Revenue -----	-----

BY OPERATION OF CIVIL SERVICE RULES AND REGULATIONS (CIVIL SERVICE RULES ARE PROMULGATED BY EXECUTIVE ORDER)

	<i>Number</i>
Rule II, sec. 9 (formerly rule X, secs. 11 and 13: Classified status given to citizens of the United States who had rendered faithful service overseas for not less than 7 years in civil capacity. This regulation was revoked effective May 1, 1947) -----	87
Rule III, sec. 3.101 of the regulations, (formerly rule II, sec. 6): Incumbents of positions brought into the competitive service. The largest groups included in this total are: 7,286 clerks in third class post offices and special-delivery messengers in first-class post offices; and 7,191 employees of Farmers Home Administration processed under this regulation as a result of the act of Cong., Aug. 14, 1946 (Public Law 731, 79th Cong.) -----	35, 324
Rule III, sec. 3.101 (a) (2) of the regulations (formerly rule II, sec. 7) — Post Office Service: Employees in offices advanced from the fourth class to a higher class, or in a post office consolidated with one in which the employees are classified as competitive. This regulation has been suspended effective Dec. 1, 1950. -----	6, 183
Rule III, sec. 3.104 of the regulations (formerly rule X, sec. 4): Employees who have served at least 2 years in the immediate office of the President or on the White House staff and whose transfer to a competitive position is requested by any agency -----	47
Rule III, sec. 3.2 (formerly rule II, sec. 8): Appointments in the competitive service without competitive examinations whenever the Commission finds that the duties or compensation of the position are such, or that qualified persons are so rare, that, in the interest of good civil service administration, the position cannot be filled through open competitive examination -----	115

#### *A Note on the Excepted Service*

Prior to 1904 persons outside of the competitive service represented a majority of Federal civilian employees. Since that time, competitive service employees have comprised a majority of Federal civilian employees—an overwhelming majority, moreover, for the years 1947 through 1971 when the percentage of competitive service employees was generally in excess of 85 percent. In 1971, however, when employees of the U.S. Postal Service were transferred from the competitive to the excepted service, the competitive service, while still a majority, dropped appreciably in percentage terms, going from 83.1 percent to 61.2 percent of the total.

Excepted service designations can be made either by statute or by administrative action of the President or the Civil Service Commission acting as his agent. Excepted service categories are many, varied, and complicated, as pointed out by Herbert Kaufman in his "The Growth of the Federal Personnel System: A Profile of the Federal Civil Service."<sup>4</sup> Kaufman notes that the 14 percent of 1963 Federal employees not in the competitive service comprised 387,000 persons, but that over 116,000 of these were excepted by the Civil Service Commission itself, some because examinations were not customary or practical for certain

<sup>4</sup> American Assembly. *The Federal Government Service*. 2d Ed. [Edited by Wallace S. Sayre] Englewood Cliffs, New Jersey, Prentice-Hall, 1965, pp. 7-69.



designated positions, others because examinations were unnecessary or unwarranted. Of this total, moreover, nearly 82,000 foreign nationals serving outside the United States were also excepted by the Commission. The majority of excepted positions, however, are excepted by statute and consist of the thousands of jobs in agencies such as TVA, the Commissioned Corps of the Public Health Service, the FBI and ERDA (formerly AEC), to cite only a few. Most of these positions operate under separate and independent competitive merit systems not under the jurisdiction of the Civil Service Commission.

The definitive word on Federal agencies excepted from the competitive service in whole or in part, and other positions in the Federal service excepted by statute, is the report to the Senate Committee on Post Office and Civil Service by the U.S. Civil Service Commission, dated July 1973, and entitled "Statutory Exceptions to the Competitive Service." The report lists 36 agencies or agency subdivisions comprising some 1,128,587 Federal service positions excepted from the competitive service by statute.<sup>5</sup> The report also lists an additional 10,020 lawyer-positions within 35 agencies or subdivisions thereof, which were excepted by statute or administrative action.

The following tables show number of positions excepted by statute for each of the agencies or subdivisions thereof, and a list of lawyer-positions excepted, as contained in the 1973 report.

TABLE 5.—*Number of positions by agency excepted from the competitive service by statute as of 1973*

<i>Agency</i>	<i>Number of positions excepted</i>
Peace Corps-----	849
AID—Administrative Determined Personnel-----	110
AID—Foreign Service Personnel-----	3, 570
USDA—Agricultural Marketing Service (temporary positions)-----	
USDA—Federal Crop Insurance Corporation (Intermittent Employees)-----	1, 600
AEC (ERDA)-----	7, 347
Federal Reserve (Employees of the Board of Governors)-----	
Canal Zone (Civilian Personnel Policy Coordinating Board)-----	20, 901
CIA-----	
Commerce (NOAA) (Commissioned Corps)-----	340
Commerce—Patent Office—(Examiners-in-Chief of the Board of Appeals)-----	15
DOD—Office of the Deputy Assistant Secretary of Defense (Administration) (Foreign Defense Positions)-----	5
DOD—National Guard Technicians-----	43, 604
National Security Agency-----	
DOD—Nonappropriated Fund Instrumentalities (NAFI)-----	301, 000
DOD—Department of the Army (Post Dependents' School Personnel)---	1, 533
DOD—Department of the Navy (Post Dependents' School Employees)---	302
DOD—Department of the Air Force (Post Dependents' School Employees)-----	32
DOD—U.S. Navy—Marine Corps (Post Dependents' School Employees)---	454
Government of the District of Columbia-----	33, 273
Federal Mediation and Conciliation Service (Mediators and Conciliators)-----	270
GSA—National Archives & Records Service (National Archives Trust Fund Board)-----	215

<sup>5</sup> Seven agencies were listed in the report but without figures on the number of personnel affected. These were as follows: Agricultural Marketing Service (USDA), Federal Reserve Board (Employees of the Board of Governors), CIA, National Security Agency, FBI, Government of the District of Columbia, and the U.S. Postal Service. The number of employees for the U.S. Postal Service and for the Government of the District of Columbia were obtained separately, from the December 1973 Monthly Release on Civilian Manpower Statistics prepared by the Manpower Statistics Division, U.S. Civil Service Commission, and the 1973 Budget of the United States, section on the District of Columbia, respectively. The figures obtained for both agencies are included in the total figure cited above. With respect to employees of the Government of the District of Columbia, it should also be noted that under terms of the District of Columbia Self-Government and Governmental Reorganization Act (P.L. 93-198, December 24, 1973), the District Government is required to establish a single autonomous personnel system independent of the United States Civil Service Commission. The District Government merit system is to take effect not later than five years after the effective date of the implementation of the Act, in effect, no later than January 1, 1980.

<i>Agency</i>	<i>Number of positions excepted</i>
HEW—Public Health Service (Commissioned Corps)-----	5,781
HEW—National Institute of Education (Professional and Technical Personnel)-----	19
HEW—PHS (Service Fellowships of NIH)-----	441
HEW—PHS (Service Fellowships of the Health Services and Mental Health Administration)-----	47
Justice—FBI-----	
Library of Congress-----	4,200
NASA—(Scientific, Engineering and Administrative Personnel)-----	425
National Science Foundation-----	285
State Department—Foreign Service-----	8,830
TVA-----	24,103
USIA-----	1,027
U.S. Postal Service-----	691,878
VA—Department of Medicine & Surgery (Physicians, Dentists, Nurses and Allied Health Positions)-----	38,307
VA Canteen Service-----	3,275

TABLE 6.—*Number of lawyer positions, by agency, excepted from the competitive service by statute or administrative action<sup>1</sup> as of 1973*

<i>Agency</i>	<i>Number of positions excepted<sup>2</sup></i>
Action-----	10
Department of State—AID-----	28
USDA-----	195
CAB (Schedule A)-----	69
Commerce-----	--
DOD—Air Force-----	29
DOD—Department of the Army-----	703
DOD—Defense Supply Agency-----	95
DOD—Department of the Navy-----	209
DOD—Office of Deputy Asst. Secretary of Defense (Administration)-----	32
EPA-----	120
FCC-----	250
Federal Home Loan Bank Board-----	43
FPC-----	60
FTC-----	475
GSA-----	98
HEW-----	--
HUD-----	389
Interior-----	229
ICC-----	250
Justice-----	2,818
Justice—Immigration & Naturalization Service-----	185
Labor-----	300
NASA-----	68
NLRB-----	750
OEO-----	40
SEC-----	532
Selective Service-----	19
SBA-----	166
Smithsonian Institution-----	4
Department of Transportation-----	223
Treasury—IRS-----	900
Treasury—IRS—Office of Chief Counsel-----	--
Treasury—Legal Division-----	--
VA-----	731

<sup>1</sup> Lawyer positions are excepted directly by the Civil Service Commission, but indirectly by statute. They are formally excepted by a Civil Service Commission ruling made necessary by an Appropriations Act prohibition on the use of Commission funds to examine for attorney positions. This prohibition was first included in the Independent Offices Appropriations Act of 1945 (Public Law 358, 78th Congress, 58 Stat. 364). All Appropriations Acts for the Civil Service Commission since that time have contained similar provisions. (U.S. Congress, Committee on Post Office and Civil Service, Statutory Exceptions to the Competitive Service, Washington, U.S. Govt. Print. Off., July 1973, p. 226.)

<sup>2</sup> Blank spaces denote agencies for which figures are not given.

## PART III.--SELECTED FOREIGN CIVIL SERVICES

Introduction

European civil services offer some interesting parallels and contrasts to United States civil service practices and procedures. All are based on the merit system. Candidates are all selected on the basis of competitive examinations and these are stiff when entrance to the top echelon is involved. Officials usually enter in their twenties and remain in the civil service for the entire length of their careers. Few are recruited in middle life from the private sector to fill upper level jobs. Qualifications for more responsible and complicated positions are acquired through training programs and special assignments.

A characteristic of French and British civil services is the existence of a special elite corps whose members are earmarked for rapid promotion to top positions. The corps is recruited on the basis of outstanding educational attainments. This emphasis on an elite corps has given a Mandarin cast to these civil services.

European civil services have not adopted the U.S. classification system. Individuals are placed in broad classes and grades -- a system sometimes called the personnel rank system. This system assigns to the several ranks of the hierarchy a wide range of duties of equal responsibility but varying techniques.

In European parliamentary democracies civil servants are not directly answerable to parliaments. In Britain, for example, a minister or parliamentary secretary who is a member of parliament answers parliamentary questions, takes full responsibility for the actions of officials within

his ministry and defends government policy. Civil servants do not testify in parliament, but may be called before a parliamentary committee. This system enhances the political impartiality expected of civil servants. Furthermore, when administrations go out of office far fewer posts change hands than in the United States. In Britain, for example, only the officials who are members of parliament resign their administrative posts.

In three countries the remuneration of top officials is considerably higher than in the United States. A top official with two children in West Germany is paid a salary and basic allowance amounting to about \$53,000 per annum. He may also receive additional allowances, exemptions, and benefits which could considerably increase his total remuneration. In 1974 the British parliament set the top British civil service salary at £23,000 per annum (equivalent to about \$55,000 at the 1974 rate of exchange). However, owing to the British economic crisis the British Government has temporarily held this top salary to the old level of £20, 175.

The annual gross salary plus basic living and family allowances of a top French civil servant with two children comes to roughly \$43,000 per annum. Additional benefits such as special bonuses (primes), which vary from ministry to ministry, housing provided in government-owned buildings at favorable rates, entertainment allowances and other perquisites are difficult to calculate except on an ad hoc basis but may add considerably to a top official's real income.



In all the countries studied the complexity of the systems of allowances, exemptions, and other advantages provided civil servants makes it extremely difficult to draw exact comparisons between national scales and between public and private remuneration within countries. In setting civil service salary scales two factors are generally taken into account: comparability with salaries in the private sector and cost of living indices.

European civil servants are prohibited from engaging in partisan political activities which would compromise the impartial performance of their duties but these restrictions are often less restrictive than the Hatch Act. Comprehensive systems for the protection of officials through various grievance procedures and provisions for union organization have also been developed.

These and other characteristics of European civil services are examined in some detail in the following series of papers on British, West German, French, and Italian civil services. A paper has also been prepared on the Canadian civil service. (Canadian civil service procedures and practices stand somewhere between those of Britain and the United States) These papers were written by members of the Foreign Affairs and National Defense Division of the Congressional Research Service. The authors are Edward T. Lampson (Britain and Canada), Francis Miko (West Germany), Carlo LaPorta (France) and Pauline Mian (Italy).



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THE BRITISH CIVIL SERVICE

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## THE BRITISH CIVIL SERVICE

I. Introduction

As one of the early examples of a bureaucracy based on the merit principle, the British Civil Service has served as a model to many countries. It has built its traditions on the concept of a career service in which the large majority of its members enter in their twenties and devote their entire professional lives to the public service. Its personnel management system resembles the U.S. army and navy, where promotion and rank are not connected directly with job descriptions, rather than the United States Civil Service.

Throughout more than a century the British Civil Service has been noted for the intellectual calibre, dedication, and incorruptibility of its officers. The members of its Administrative Group who are intended to staff its top positions are recruited on the basis of high academic attainment and a careful search for leadership qualities. There is a preference for picking persons on the basis of general attainments and developing special qualifications needed for a particular job by training and experience within the service. This approach has produced an elite group with a strong esprit de corps.

In recent years the requirements of modern government have led to the introduction of numerous changes. Particularly since World War II the British Government has taken on many new responsibilities, including the nationalization of a number of industries, the establishment of a universal national health service, and the expansion of defense production and scientific research activities. This has



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caused the British Civil Service to introduce many changes and thus demonstrate ability to adapt to new circumstances.

## II. Size and Organization<sup>1/</sup>

The official handbook "Britain 1975" defines a civil servant as "a servant of the Crown (not being the holder of a political or judicial office), who is paid wholly and directly out of money voted by Parliament and works in a civil capacity in a department of government."

one third of whom are women.

There are about 700,000 civil servants, / Almost 40 percent are employed by the Ministry of Defence; slightly more than 40 percent "provide public services such as paying pensions and sickness benefits, collecting taxes and contributions, running employment services, staffing prisons, providing services to industry and agriculture." The rest "are about equally divided between central administrative and policy duties, service-wide support services such as accommodation, printing, and information, and services which are largely self-supporting financially, for instance those provided by the Department of National Savings and the Royal Mint."

The Civil Service Department, which is responsible for the personnel management of the Civil Service, is under the direct control of the Prime Minister. The Permanent Secretary of that Department is

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<sup>1/</sup> Britain 1975: An Official Handbook. London, Her Majesty's Stationery Office, 1975, p. 58.

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also official head of the Home Civil Service.

Though civil servants are employed by the specific department in which they work they are "members of an integrated service with common conditions of employment and traditions and standards of conduct belonging, not to individual departments, but to the Civil Service as a whole."<sup>1/</sup>

The Service is divided into the following major categories: <sup>2/</sup>

Administration Group	270,000
Economist Group	300
Statistician Group	450
Information Office Group	1,350
Science Group	18,000
Professional and Technical Group	40,000
Training Category	4,000
Others	224,500
Typists and Secretaries	28,500
Other Support Staff	29,000
Industrial Staff	177,000

"The Diplomatic Service is a separate self-contained service of the Crown." It numbers 6,300.... "The Service has its own grade structure, linked for salary purposes with that of the Home Civil Service."<sup>3/</sup>

### III. Development

The modernization of British public administration began in the nineteenth century. The creation of a civil service based on merit was one of the many sweeping innovations of the Victorian age, such as the reform of the criminal and civil codes, the establishment

<sup>1/</sup> Ibid., p. 59.

<sup>2/</sup> Britain 1976: *An Official Handbook*. London, Her Majesty's Stationery Office, 1976, p. 61-62. The heading "others" refers to the 40 percent of non-industrial staff who have not yet been allocated to categories.

<sup>3/</sup> Ibid., p. 62.

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of the police, the reform of the prisons, the expansion of the suffrage, and the reorganization of university education.

Prior to the 1850's the government bureaucracy was staffed on the basis of patronage and caught up in a tangle of antiquated procedures and conflicting jurisdictions. Although individuals like Macauley had long called for reform it was not until the scandalous mismanagement of the Crimean War became well known that public opinion came to the support of the reformers.

#### A. Civil Service Reform

In the middle of the Crimean War (1854) Her Majesty's Stationery Office published two reports on civil service reform. They were the Northcote-Trevelyan Report on the Organization of the Permanent Civil Service and the Macauley Report on the Indian Civil Service. These reports formulated the basic philosophy of the British civil service for more than a century and exercised a strong influence in the United States and many other countries.

Both reports condemned the nepotism, incompetence and other defects of the existing system and proposed drastic corrective action.

The Northcote-Trevelyan Report described the faults of the Civil Service in scathing terms:

Admission into the Civil Service is indeed eagerly sought after, but it is not for the unambitious and indolent or incapable, that it is chiefly desired. Those whose abilities do not warrant an expectation that they will succeed in the open professions, where they must encounter the competition of their contemporaries, and those whom indolence of temperament, or physical infirmities make unfit for active exertions, are placed in the Civil Service, where they may obtain an honourable

livelihood with little labour, and with no risk; where their success depends upon their simply avoiding any flagrant misconduct, and attending with moderate regularity to routine duties; and in which they are secured against the ordinary consequences of old age, or failing health, by an arrangement which provides them with the means of supporting themselves after they have become incapacitated. 1/

The remedy to this situation which both reports proposed was the introduction of competitive entry examinations. The authors thought in terms of service in which the routine work would be done by non-university men or by natives (in the Indian case). They concentrated their attention on the recruitment of first-class university graduates who would staff the top ranks of both services. The examinations they had in mind were to be a means of selecting gifted generalists.

#### B. The Generalist Tradition

The report of a later Committee (1968) which significantly changed British government policy regarding recruitment commented specifically upon the consequences of this attitude for the character of the British Civil Service as follows:

The Macauley Report extolled the merits of the young men from Oxford and Cambridge who had read nothing but subjects unrelated to their future careers. The Northcote-Trevelyan Report pointed out the possible advantages of reading newer, more relevant subjects, such as geography or political economy, rather than the classics. But as the two services grew, this difference between the two reports seems to have been lost. There emerged the tradition of the "all-rounder" as he has been called by his champions, or "amateur" as he has been called by his critics." 2/

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1/ The complete text of the Northcote-Trevelyan Report is printed in the Civil Service, Report of the Committee 1966-68. Chairman Lord Fulton, London, Her Majesty's Stationery Office, 1968, Command Paper 3638. vol. 1, p. 108.

2/ The Fulton Report, op. cit., p. 9.



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At the time it was proposed this approach seemed appropriate. The tasks of government were largely passive and regulatory. It fitted the requirements of an imperial service abroad and provided a cadre of intelligent and dedicated public servants at home. And in the political environment of the period before universal suffrage, that it would create an elitist civil service did not appear as a disadvantage. It is interesting to note how clearly this feeling was expressed. Gladstone made the point in the following way:

I have a strong impression that the aristocracy of this country are even superior in natural gifts, on the average, to the mass: but it is plain that with their acquired advantages, their insensible education, irrespective of book learning, they have an immense superiority. This applies in its degree to all those who may be called gentlemen by birth and training; and it must be remembered that an essential part of any such plan as is now under discussion is the separation of work, whenever it can be made, into mechanical and intellectual, a separation which will open to the highly educated class a career and give them a command over all the higher parts of the civil service, which up to this time they have never enjoyed. 1/

C. Recommendations of the Northcote-Trevelyan Report

The Northcote-Trevelyan Report made three specific recommendations for reform. It urged the Government:

1. To provide, by a proper system of examination, for the supply of the public service with a thoroughly efficient class of men.
2. To encourage industry and foster merit, by teaching all public servants to look forward to promotion according to their deserts, and to expect the highest prizes in the service if they can qualify themselves for them.

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1/ Chapman, Richard A. The Higher Civil Service in Britain. London, Constable, 1970., p. 28.

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3. To mitigate the evils which result from the fragmentary character of the Service and to introduce into it some elements of unity, by placing the first appointments on a uniform footing, opening the way to the promotion of public officers to staff appointments in departments other than their own..... 1/

D. Subsequent Changes

British governments moved cautiously and slowly in implementing the recommendations of the Northcote-Trevelyan Report. Since its proposals aroused much opposition in Parliament, the Government introduced the first modest reforms by Order in Council rather than by Act of Parliament, as the authors had expected.

A Civil Service Commission was set up on May 21, 1855 with instructions to examine candidates nominated by departments to ascertain that they were properly qualified. It was a system which left numerous means by which unqualified applicants could slip through. It was not until 1870 that the major loopholes were plugged. An Order in Council of that year "with certain exceptions made open competition obligatory throughout the Home Service."<sup>2/</sup>

In the first half of the twentieth century the role of the Government rapidly expanded and numerous innovations in the organization of the Civil Service reflected these changes.

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1/ The Fulton Report, op. cit., p. 118.

2/ Gladden, Edgar N. Civil Services of the United Kingdom 1855-1970. London, Frank Cass & Co. 1967, p. 28.

By 1920 the Service was divided into three main categories:

Clerical, Executive, and Administrative. All classes were filled by open competitive examination. Candidates for the Clerical Class -- aged 16-17 -- took examinations at the intermediate secondary standard level; Executive Class applicants -- aged 18-19 -- took examinations at the full secondary standard level. (Members of this latter class in its upper ranks "would deal with broad questions arising out of business in hand or in contemplation, and with the responsible conduct of important operations."<sup>1/</sup>

"The Administrative Class, which for the first time was to become a true all-Service class, was to be recruited between the ages of 22 and 24, by an open competitive examination in subjects embraced by the various honours courses of the universities. Although the examination was to be mainly written it was to include a viva voce which was to constitute a test of personality and character, the marks for which were to be added in with those on the written papers. This was an innovation at the time justified because of the class's leadership function. The recruits of this class were to form a cadet corps from which selection would be made to higher administrative posts."<sup>2/</sup>

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<sup>1/</sup> Ibid. p. 28.

<sup>2/</sup> Ibid. p. 28.

#### E. The Role of the Treasury

Up to 1968 the control over the Civil Service was vested in the Treasury. In the latter part of the nineteenth century parliamentary inquiries had emphasized the importance of co-ordinating the operations of the Civil Service whose members were distributed throughout the various departments of the government. Because of its pre-eminence in the government hierarchy and its financial control, the Treasury gradually assumed a commanding position over the whole of the Service. One of the two Joint Permanent Secretaries of the Treasury held the post of the Head of the Civil Service at the official level. Later a special section was set up within the Treasury for the general supervision and control of the Civil Service. An Order in Council in 1920 formalized the Treasury's position by authorizing it to "make regulations controlling the conduct of His Majesty's Civil Establishments and providing for the classification, remuneration, and other conditions of service of all persons employed there-<sup>1/</sup>in, either permanently or temporarily."

However, particularly after World War II, the Treasury came under increasing criticism for being too restrictive in authorizing staffing patterns and in granting requests for expenditures. By 1950 the other departments were given greater delegated financial authority and more latitude to regrade their positions and alter their staffing patterns.

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<sup>1/</sup> Campbell, George A. The Civil Service in Britain. London, George Duckwork, 1965 (second edition) p. 99-100.



But criticism continued. In 1968, control over the Civil Service was assigned to a newly created Civil Service Department.

F. The Fulton Committee

A thorough examination of the relevance of the concepts of the Northcote-Trevelyan Report to the requirements of the late twentieth century did not take place until 1966. But the increasingly complex and comprehensive tasks of government were creating a need for specialized knowledge, training and aptitudes not dreamt of in the Victorian age.

In 1966 a Royal Commission under the championship of Lord Fulton, Chancellor of the University of Sussex, was established to study the Civil Service and make recommendations for its improvement. (The Fulton Committee was the first government Committee appointed by a Labour Government to study the Civil Service. Some have felt that the tone of some of its observations and the tenor of some of its recommendations reflected its provenance.)

After two years of study the Committee made some sweeping proposals. Its basic finding was that the Service was living in the past and must be thoroughly modernized. "The Home Civil Service today," the report reads, "is fundamentally the product of the nineteenth century philosophy of the Northcote-Trevelyan Report. The tasks it faces are those of the second half of the twentieth century. This is what we found; it is what we seek to remedy."<sup>1/</sup>

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<sup>1/</sup> The Fulton report, op. cit., p. 9

The Committee strongly criticized the concept of the amateur under which "the ideal administrator is still too often seen as the gifted layman who, moving frequently from job to job within the Service, can take a practical view of any problem....Today, as the report of our Management Consultancy Group illustrates, this concept has most damaging consequences. It cannot make for the efficient dispatch of public business when key men rarely stay in one job for more than two or three years before being moved to some other post, often in a very different area of government activity. A similar cult of the generalist is found in that part of the Executive Class that works in support of the Administrative Class and even in some of the specialist classes. The cult is obsolete at all levels and in all parts of the Service." <sup>1/</sup>

The Committee also criticized the Service for its "rigid and prolific compartmentalism" with its 47 general classes and over 1,400 departments classes. It found that generalists in the Administrative Class were excluding scientists, engineers and members of other specialist classes from higher management and policy-making functions with the result that the British Civil Service was not developing a body of men "with the qualities of the French polytechnicien — skilled in his craft, but skilled, too, as an administrator." <sup>2/</sup>

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<sup>1/</sup> Ibid., p. 11.

<sup>2/</sup> Ibid., p. 11-12.

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It considered even the Administrative Class officers to be poorly trained for major managerial roles. "Few members of the class actually see themselves as managers, i.e. as responsible for organization, directing staff, planning for the progress of work, setting standards of attainment and measuring results, reviewing procedures and quantifying different courses of action... They tend to think of themselves as advisers on policy to people above them rather than as managers of the administrative machine below them."<sup>1/</sup>

Committee members also believed that there was not enough contact between the Civil Service and the outside world. "There is not enough awareness of how the world outside Whitehall works, how government policies will affect it, and the new ideas and methods which are developing in the universities, in business and in other walks of life." They attributed this partly to the characteristics of a career service in which most civil servants expect "to spend their entire working lives." But the Committee thought that "the public interest must suffer from any exclusiveness or isolation which hinders a full understanding of contemporary problems or unduly restricts the free flow of men, knowledge and ideas between the Service and the outside world."<sup>2/</sup>

Finally the Committee had serious criticism of the personnel management in the Civil Service. Career planning was largely limited to the Administrative Class; personnel assignments were often haphazard and made

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<sup>1/</sup> Ibid. p. 12.

<sup>2/</sup> Ibid., p. 12-13.

with scant regard to personal preference or aptitude. Initiative was not sufficiently rewarded and promotions depended too much on seniority.

G. Post-1968 Reforms

The Fulton Report recommendations were not adopted in full. For example, the Government did not accept the proposal to abandon the policy of looking for generalists. In a statement of November 23, 1968, Prime Minister Wilson "announced that the Government had rejected the majority recommendation of the Committee that the selection of graduate entrants to administrative work should be deliberately weighted in favor of those whose university studies had been in subjects thought closely relevant to Civil Service work." <sup>1/</sup>

The Committee's findings, however, did result in major changes in the administration of the Civil Service. In accordance with a Committee recommendation the Treasury was stripped of its control of the Service; a new Department of the Civil Service was established. More flexible administrative and organizational patterns were adopted which would give more managerial scope to specialists and equip the Service to handle its new responsibilities.

The description of the structure of the post-Fulton Committee Civil Service contained in "Britain 1975" provides a brief summary of the changes which have been made.

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<sup>1/</sup> Chapman, op. cit., p. 146-147.



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The structure of the Home Civil Service, which until recently tended to reflect the assumption that specific types of work should be allocated to particular groups of civil servants on the basis of their specialist or vocational qualifications, is at present being redesigned to provide for a more flexible deployment of staff so that talent can be used to the best advantage and the highest levels of the Civil Service seen to be open to people of outstanding ability, whatever their specialist background or original method of entry to the service. These structural changes involve the abolition of classes, and are being allied with personnel management policies designed to ensure that, although work requiring specialist skill is always done by appropriately qualified individuals, people with the necessary aptitudes are given suitably wide experience to fit them for higher posts.

At the top levels of the Civil Service, where staff are predominantly concerned with high management and policy, there is now an open and unified structure, with three grades -- permanent secretary, deputy secretary and under secretary -- available for all types of post. Posts at these levels are filled by the people most suitable for them without regard to their academic background or to whether they were previously in a specialist or generalist stream.

At other levels the structure is being based on a system of categories which are pay and grading structures and occupational groups which are groups of staff within each category, whose members have common personnel management and recruitment needs. 1/

The Committee's report also resulted in changes in entrance examinations, promotion policy, and other patterns.

#### IV. Career Management

##### A. Recruitment

In the present British Civil Service most candidates for the highest level of the Administrative Group do not take the written examination in optional academic subjects at honors degree level which for almost a hundred

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1/ Britain 1975, op. cit., p. 59-60.

years served as the principal method of selection. Today's candidates with first class honors degrees or second class honors plus a post-graduate degree are excused from taking a qualifying examination. They are given a series of tests and interviews designed to reveal their traits of intellect and character. The tests were originally based on methods developed during the war for the selection of officers. They include practical exercises and psychometric tests designed to measure intelligence ability to think numerically, etc. <sup>1/</sup>

An interesting example of an examining technique was given by Mr. George A. Campbell in 1965. He wrote:

The applicants are presented with a set of papers describing an administrative "case" which, although imaginary, has a substantial basis in fact. After studying the papers, the candidates are asked to write an answer to a question of principle or policy. The next stage is for the group to form itself into a committee and consider a number of aspects of the central theme. Each candidate serves in turn as the chairman or as an ordinary member of the committee. While acting as chairman he is allotted a problem to expound and the assessors watch how a man or woman succeeds in guiding the committee. <sup>2/</sup>

The tests were first given in a house in the country during a weekend and the names 'house party' or 'weekend' are still used in speaking of them though the tests are now held in London over two or two and a half weekdays. Interviewing plays an important part of the process. Those who have done satisfactorily are selected for a final interview before the Final Selection Board. Candidates who have not received university honors degrees also have to pass a qualifying examination. Candidates must be between 20 and 28.

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<sup>1/</sup> Chapman, op. cit., 44-45.

<sup>2/</sup> Campbell, op. cit., p. 61.

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In the past the British Civil Service was the epitome of a closed career service. Members entered at the bottom of the Service and rose by promotion within it, normally devoting their entire professional life to the Service. Lateral entry was very unusual.

However, in 1964 the Treasury adopted a policy of bringing a limited number of recruits into the middle and upper ranks of the Service. Qualifications for direct entry into the higher grades are somewhat more complex than for entry at the bottom but they follow a similar pattern. The age limits are higher and no formal academic qualifications are necessary. But evidence of intellectual standards equivalent to a good honors degree plus experience in administrative work are prerequisites. Provision is also made for recruiting persons with needed scientific or technical qualifications at higher levels.<sup>1/</sup>

A successful candidate receives a "certificate of qualification" from the Civil Service Department but he is appointed by the department in which he is to work.<sup>2/</sup>

#### B. Promotions

In the British Civil Service promotion is primarily a departmental affair. Departmental promotion boards are appointed by the Head of the Department to make recommendations to him. The final decision rests with the Head. The boards work from the normal personal records of the officers

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<sup>1/</sup> Chapman, op. cit., p. 45.

<sup>2/</sup> Britain 1975, op. cit., p. 61.

concerned and the recommendations of supervisors, and in some cases personal knowledge. An essential part of the promotion dossier is a standard systematized report which must be prepared every year. A person who believes he has been unfairly treated may appeal up to the Permanent Head of the Department but not beyond. A civil servant is barred from writing about a promotion grievance to his Member of Parliament upon pain of dismissal.<sup>1/</sup>

### C. Classification

The British Civil Service has not accepted the principle of position classification which is a central part of the United States civil service system. Instead individuals are assigned to broad classes and grades -- a system sometimes call the "personal rank" system. This system "assigns to the several ranks of the hierarchy a wide range of duties of equal responsibility but varying techniques."<sup>2/</sup>

The present British classification dates from January 1971 when the old Treasury administrative, executive and clerical classes were combined to form a single Administrative Group. This group forms the central core of the Civil Service. It consists of ten grades from Clerical Assistant to Assistant Secretary. Of these only a limited number form the inner group of Permanent Secretaries, Deputy Secretaries and Under Secretaries whose influence derives from their being in close with their ministers. They number about 600.

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<sup>1/</sup> Gladden, op. cit., p. 107-123.

<sup>2/</sup> Ibid. p. 107.



The 'rank principle' of classification is appropriate for a service in which most of the positions are filled by persons who enter at an early age at the bottom and continue in it throughout their government careers.

D. Career Development

A system which brings in most of its members at the bottom must, if it is to meet modern requirements, establish a strong program of career development whereby officials acquire within the service the skills and experience which under another system might be obtained by recruitment of outside talent at higher levels.

Thus it is not surprising to find that the British Civil Service in recent years has greatly strengthened its training courses to keep abreast of the greatly expanding responsibilities of government.

The Personnel Management (Training) Division of the Civil Service Department directs and coordinates training programs throughout the government. All major departments have full-time training officers. A large number of management courses are given, some of them at the Civil Service College which was opened in 1970. Officers may also be enrolled in management courses in business schools, the Administrative Staff College at Henley, and other centers. (The emphasis on management training is in response to criticisms made by the Fulton Commission.)

"Britain 1975" describes Civil Service training methods as follows:

Methods of training within the Civil Service combine lectures, discussion groups, instructional visits and case studies with the use of many audio-visual aids such as closed-circuit television and video-tape recordings, instructional films and programmed learning: there is also a considerable amount of 'on-the-job' training. Civil

servants are regularly moved between the different branches of their department and sometimes between departments so that they can gain as wide an experience as possible of Civil Service work.

In order that they may continue their education, arrangements are made for the release of civil servants under the age 18 usually one day a week ("day release" schemes) to attend appropriate courses. Adult staff are assisted financially to undertake, mainly on their own time, private studies leading to recognized or professional qualifications in approved subjects. There are also opportunities for civil servants in mid-career to obtain fellowships or otherwise to go on sabbatical leave to undertake research on areas of interest to themselves or their departments.

The Civil Service College offers a wide range of courses and seminars for civil servants up to the rank of Under Secretary in subjects such as "structure and machinery of government, organization and staff management, economics, statistics, industrial growth, social administration, operational research, computers and information systems." And reflecting the British decision to enter the European Communities, there are courses on European <sup>1/</sup>institutions.

#### E. Civil Service Pay Scales

British civil service pay scales are set by two boards: the Top Salaries Review Body and the Civil Service Pay Board. Pay scales are reviewed on an annual basis. Extra allowances are also provided depending on where a civil servant is employed. All but top civil servants working in London receive a supplement of £410 per annum (called London Weighting)

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<sup>1/</sup> Britain 1975, op. cit. p. 62

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In January 1975 the salaries of higher civil servants (all officials receiving more than L 8850) were raised. The new rates were set as follows:

NATIONAL RATES <sup>1/</sup>

(Dollar equivalents at the 1974 rate of exchange  
of \$2.40 to the pound are shown in parenthesis.)

	<u>Salary from</u> <u>1.1.74</u>		<u>Salary from</u> <u>1.1.75</u>		<u>Salary from</u> <u>1.1.76</u>	
	£	\$	£	\$	£	\$
Grade 1						
Permanent Secretary	16,350	(39,240)	18,675	(44,820)	21,000	(50,400)
	17,350	(41,640)	20,175	(48,420)	20,000	(55,200)
Chief Legal Adviser	13,200	(31,680)	15,100	(36,240)	17,000	(40,800)
Grade 2						
Deputy Secretary	11,100	(26,640)	14,000	(33,600)	15,000	(36,000)
Grade 3						
Under Secretary	9,000	(21,600)	12,000	(28,800)	12,000	(28,800)
Chief Scientific Officer (lower band)	8,950	(21,480)	10,950	(26,280)	10,950	(26,280)

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<sup>1/</sup> The figures were received from the British Embassy. Officers at these salaries do not receive the London weighting allowance.

-19b-

Annual salaries for Executive Grades were set in January 1, 1975, ranging from £1,885 to £8,650 (\$4,524 to \$20,760 at the then prevailing exchange rate of \$2.40 to the pound).

However, owing to the agreed limitation on wage increases of 6 pounds a week agreed between the British Government and the Trade Union Congress, these increases have not been put into effect. (Increases in salaries are limited to £313.20 per annum. These increases do not apply to salaries above £8400 per annum.

V. Some Enduring Characteristics

Despite the modifications described in the preceding section many of the characteristics of the British Civil Service have endured.

Gladstone's forecast that the merit principle would give "the highly educated" command over the Civil Service proved to be accurate. By setting very stiff examinations closely geared to the education provided by a small group of select schools (such as Eton, Winchester, and Harrow) and Oxford and Cambridge universities the nineteenth century Civil Service Commissioners recruited highly intelligent upper class officials.



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officials instilled with a strong sense of rectitude and public duty. (The Oxford idealists of the Victorian age had shaped the intellectual climate in which the public servants of Victorian and Edwardian days had been brought up.) The top officials came from the same background as the political leaders whom they served, often having been to the same schools and universities with them. Thus the men who occupied the leading positions in the various departments throughout the government and in the major political parties formed a closely knit group which shared the same outlook and code of conduct. The Higher Civil Service, as it was called, was an elitist group with a high degree of esprit de corps.

Although, as we have seen, there have been numerous changes in the Civil Service in recent years, many of the characteristics of the old system still obtain. The membership is more widely recruited and more democratic but the majority of officers are still the products of Oxford and Cambridge-- though some of these were scholarship men. In 1965, 76 percent of the administrative class entrants came from Oxford or Cambridge..." By 1970 the figure had dropped to 55 percent. <sup>1/</sup>

It is noteworthy that the Fulton Committee -- which viewed the Civil Service with a sharply appraising eye spoke of its qualities as follows:

There are exceptionally able men and women at all levels. There is a strong sense of public service. Its integrity and impartiality are unquestioned. We believe that the country does not recognize enough how impressively conscientious many civil servants are in the personal service they give to the public. <sup>2/</sup>

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<sup>1/</sup> Harvey J. and L. Bather. The British Constitution. London, Macmillan, St. Martin's Press. 1971, (third edition). p.292.

<sup>2/</sup> Fulton Report, op. cit. p. 13.

# VI. The Neutrality of the Civil Service

In the development of the British parliamentary system the neutrality of the Civil Service has played an important part. As servants of the Crown in a system where the King plays no political role whatever civil servants can lay claims to a position of impartiality. And the system of recruitment by merit and guaranteed tenure (subject to effective performance) provides an additional assurance of non-partisanship.

Tradition has defined the role of the cabinet and the parliamentary ministers who control the departments in a way that protects the position of the Civil Service. Theirs is the responsibility for defending departmental actions in Parliament -- thus shielding civil servants from partisan political attack.

Long-established traditions have trained the civil servants to provide experience, know-how, and continuity needed for the smooth administration of the country when a government changes and to assist in the implementation of new policies in the most efficient and least disruptive way possible.

When a government falls only a few top policy jobs -- almost always held by Members of Parliament -- change hands. Except for them the entire staffs of the departments remain in place, thus providing a full component of officials ready to carry out the policies of a new government irrespective of their personal views.

The relationship of the civil servant to the minister has been described as follows:

Constitutionally, the minister is paramount and in theory, he is not even bound to seek advice from his officials. In practice, however, he should almost always do so, and his top civil servants must then consider his policy in detail, raise possible objections, and submit alternatives. As a result of such informed criticism, the minister may modify his plans, but in the last resort the decision rests with him. Once his mind is made up, the official must help him in every possible way. Harmony between the minister and his civil servant is essential to the smooth working of the constitution and, although the day-to-day administration is hidden from the public view, there is every indication that this is the normal relationship. Thus, both Sir Winston Churchill and Lord Attlee have paid tribute to the spirit in which the Civil Service works. <sup>1/</sup>

#### VII. Civil Servants and the Official Secrets Act

British Civil Servants under the terms of the British Secrets Act are liable to criminal prosecution for disseminating official information. In very broadly drafted language section 2 of the Official Secrets Act of 1911, as amended, makes it a misdemeanor for any public servant to communicate any official document or information "to any person, other than a person to whom he is authorized to communicate it, or a person, to whom it is in the interest of the State his duty to communicate it." The Act makes no distinctions of kind or degree. All information which a Crown servant learns in the course of his duty is 'official' for the purpose of section 2, whatever its nature, whatever its original source. <sup>2/</sup>

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<sup>1/</sup> Ibid., p. 287-288.

<sup>2/</sup> Departmental Committee on Section 2 of the Official Secrets Act 1911, Report of the Committee Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty's Stationery Office, Cmnd 5104, 1972, p. 14.

The vague and sweeping character of this language has been much criticized in Britain. The Fulton Committee recommended that "the Government should set up an enquiry to make recommendations for getting rid of unnecessary secrecy in this country. Clearly, the Official Secrets Acts would need to be included in such a review." The Franks Committee in 1972 recommended the repeal of section 2 and its replacement by new legislation carefully defining the types of information that should be classified and the circumstances under which it can be disseminated. Both the Conservative and Labour Parties are on record as favoring such a course of action but to date no legislation has been introduced.<sup>1/</sup>

#### VIII. Redress of Grievances

Civil servants are in a number of ways second-class citizens as regards their ability to seek redress of grievances. They find themselves restricted in the ability to deal through both political and union channels. Although the situation in both areas has improved considerably since World War I, their sphere of action is strictly limited.

##### A. Political Action

In 1948 the Chancellor of the Exchequer Sir Stafford Cripps set up a special committee under the chairmanship of Mr. J.C. Masterman to inquire into the question of to what degree members of the Civil Service could

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<sup>1/</sup> Bernard D. Nossiter wrote in the Washington Post that British Prime Minister Callaghan "had let it be known that he will not tolerate any reform of the Official Secrets Act..." Washington Post. July 2, 1976. p. A 23.



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participate in political activity. The report proposed that "all industrial and minor and manipulative grades" of the Service should be given a special status in seeking office as members of parliament. All civil servants would have to resign before nomination day "but members of the exempted grades who were not elected would be reinstated on application within one week of declaration day."<sup>1/</sup>

Subsequently the Government accepted the "proposal that the Civil Service should be divided horizontally into three groups, a politically free group, a group with restricted rights, and a group excluded from political action. Political activities in the national sphere were "defined as (i) adoption as a parliamentary candidate, (ii) holding in party political organizations offices impinging wholly or mainly on party politics in the national field, (iii) speaking in public on matters of national political controversy, (iv) expressing views on such matters in letters to the press, books, articles, and leaflets, and (v) canvassing on behalf on parliamentary candidates."<sup>2/</sup>

All industrial civil servants and the "minor and manipulative" grades of the non-industrial Civil Service fall into the free group. The intermediary group includes all grades except members of the Executive, Administrative and other senior classes. With departmental approval members of the intermediary group may participate in any of the listed activities except running for Parliament. Members of the third group may participate in local elections depending on the particular responsibility

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<sup>1/</sup> Gladden, op. cit., p. 156-158

<sup>2/</sup> Ibid. p. 157.

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of the department in which they work but are barred from taking any part in any of the listed activities on the national level.<sup>1/</sup>

B. Group Action

British Civil Service tradition strongly opposes striking against the Government but it is not a statutory offense. There has, however, been a history of civil servants combining to advance their group interests. Such combinations are usually called "associations" rather than unions.

After World War I the Civil Service introduced conciliation machinery entitled Whitley Councils on service-wide, departmental, and association levels. The National Whitley Council has a membership of 54, half of whom are top officials representing Civil Service management and half appointed by associations or groups of associations. In 1956 the National Council established a Civil Service Pay Research Unit to provide objective figures on pay scales in the private sector to be used in the negotiation of increases in Civil Service wage scales which are supposed to be commensurate with those in private industry.

The handling of labor relations in the Civil Service are described briefly in the following paragraphs of "Britain 1975",

Non-industrial employees in central Government service, where salaries and conditions of service are dealt with by the Civil Service Departments ...are permitted and encouraged to join the appropriate Civil Service trade unions and there is a highly developed system of negotiation and joint consultation by means of the National and Departmental Whitley Councils... If there is failure to reach agreement by negotiation

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<sup>1/</sup> Ibid. 158

a department or association may, subject to certain limitations, report the dispute to the Secretary of State for reference to the Civil Service Arbitration Tribunal, an independent body appointed by the Secretary of State by powers under the Industrial Courts Act 1919. Government industrial employees are similarly encouraged to belong to trade unions and machinery exists for joint consultation. There are four Trades Joint Councils on which representatives of the Government and the trade unions sit to consider pay and conditions of employment affecting individual grades and certain other limited matters. A Joint Co-ordinating Committee, on which the Government and Trades Joint Councils are represented, deals with national pay negotiations, conditions of service and other matters of general application. In the main employing departments there are departmental joint councils for the discussion of domestic matters. Disputes on wages or conditions of employment that cannot be resolved by the existing machinery can be referred to the Industrial Arbitration Board....

In local government service there are separate National Joint Councils for the main grades of employees (such as manual, clerical and technical employees) which deal with wages and conditions of service as well as other matters. There are corresponding regional and district councils.

The major nationalised industries have a statutory duty to establish satisfactory arrangements for collective bargaining in their industries and for joint consultation with their employees; in carrying out these duties they are free to choose suitable arrangements. The main difference from private industry is that the corporations are not usually members of employers' association.... In some industries they are sole or main employers, but even where part of the industry is in private hands, as for example in road transport, the corporations are separately and directly represented on wage-negotiating bodies.

Wages and conditions of service in the nationalised industries are generally settled by negotiation between representatives of management and trade unions at the national level; in most cases there are also regional and local bodies, similarly representative, to deal with local implications but not normally to negotiate separate local agreements. Most of the industries use the facilities of arbitration offered to industry generally by the Department of Employment..., but coalmining and rail transport have their own special arrangements. Consultations at all levels, including the 1/ workplace, have been arranged in all the nationalized industries.

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1/ Britain 1975, op. cit., p. 349-350.

#### IX. The Parliamentary Commissioner for Administration

In 1966 the Government appointed a Parliamentary Commissioner for Administration. The Commissioner "investigates complaints of personal injustice or of maladministration by the central government brought by M.P.'s at the instance of individuals or companies." The Commissioner can call for written or oral evidence, and has the power to compel production of documents. "...only complaints for which a minister has responsibility can be taken up by the Parliamentary Commissioner, and so such important subjects as the nationalized industries, the National Health Service, local government and the police are excluded." <sup>1/</sup> In practice the office has not been very effective. One leading British Conservative public figure (Lord Butler) has described it as "a sop to public criticism of the Government's abuse of power." <sup>2/</sup>

#### X. Conclusion

This sketch of the British Civil Service illustrates why Britain has a reputation for peaceful change.

The Civil Service is now doing things which would never have occurred to Northcote and Trevelyan. It is now charged with a crucial role in the management of the British economy along Keynesian lines. It is running a considerable part of the British industrial system

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<sup>1/</sup> Harvey and Bather, op. cit., p. 300.

<sup>2/</sup> Ibid., p. 301.



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since the nationalization program of the Labour Party. Two years ago it found itself in the middle of a major industrial dispute between the Government as employer and Government employees (coal miners) as strikers.

New responsibilities call for new methods. The manner in which the Service accepted and carried out the Fulton Committee recommendations for modernization shows that this important British institution has not lost its claim to the national reputation.

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PUBLIC ADMINISTRATION IN FRANCE

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## Public Administration in France

I. Introduction

France is governed by a centralized, unitary national administration which is tightly bound by regulations and tradition, particularly at lower and middle levels. Since most individuals in the civil service devote their entire working lives to the public administration, they expect a large degree of protection in return. Thus security and equality are watchwords for the service, and regulations are detailed and complex.

A key characteristic of France's public administration is the extreme power of an administrative elite forming the so-called grands corps. These prestigious cadres within the civil service carry out specific tasks such as auditing or review of government regulations, but have a more pervasive influence because their members rise quickly to authoritative management posts.

In the French civil service, entry, assignment and promotion are strongly influenced by the French educational system. Particularly, at the upper levels, an administrator's career depends to a large extent upon school connections and performance.

The organizational lines of French administration carry over from the Napoleonic era and the civil service continues to follow an interventionist philosophy of government inherited from a century ago. Concepts of permanence and continuity contribute to a self-importance felt by public administrators, who have benefited from the fact that during the subservience of Third and Fourth Republic governments to parliamentary political factions many

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Frenchmen believed the administration alone was planning for and running the state.

However, students of French government have recently noted changes in the relationships between the political level of government and the civil service bureaucracy. They attribute this in large part to the establishment under the Gaullist Fifth Republic of a strong executive government which could count on a stable parliamentary majority -- something new in modern France. This increased the influence of political leaders over the civil service.

At present, no one discounts the power held by the bureaucracy. And while most recognize the abilities and talent of the civil servants, some quarters of French society increasingly express concern that the bureaucracy is too much involved in French life. They see it as a representative of the status quo in a stagnant society. To these critics, France is increasingly governed by a class of insensitive, stifling, technocratic citizens who are a world apart from the general population.

These generalizations based on research in secondary sources are further developed in succeeding sections of this report in a more detailed discussion of the organization and operation of the French career civil service and its relationships with politically appointed officials of ministerial rank.

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## II. Regulation of the Civil Service

In the course of reform after World War II, the French National Assembly passed France's first general regulations covering the civil service. These regulations apply to established (titularisé or permanently appointed) central administration employees, but not local government officials, military personnel, judges, and those employed by state-owned commercial enterprises. The general regulations, however, were not able to unify policy and structure for the entire civil service in accordance with the reformers' desires to standardize the civil service. Thus, in addition to the general regulations, a series of special regulations, exceptions to rules, and precedents continue to form a part of the more complete body of administrative law which governs the civil service.

In 1945, the reform minded government created a Civil Service Directorate to carry out regulation making, standardization, and supervisory procedure for the civil service.<sup>1/</sup> In 1946 general regulations written to govern the civil service confirmed that the Directorate should monitor compliance with those new civil service regulations, by giving it responsibility to:

oversee application of statutes and conformity to general principles of the civil service;

determine with approval of ministers general recruitment regulations and oversee their application;

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<sup>1/</sup> Gregoire, Roger. The French Civil Service. International Institute of Administrative Science, Brussels, [1964] p. 109.

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follow, with the agreement of the Finance Minister, the civil service grade structure guidelines;

improve, with the agreement of the ministers, the organization and efficiency of public service.

Attached to the Prime Minister's General Secretariat, the Directorate comes under the Minister of State for the Civil Service.

In line with Gaullist policy, an executive ordonnance of February 4, 1959, restating the general civil service regulations increased executive branch control over the civil service. The prime minister, who is chosen by the president from among members of the National Assembly, is the highest legal authority directly responsible for all civil service affairs. He signs or countersigns all regulations concerning public administration and civil servants. Under specific authorization he has the power to delegate his authority over the civil service to a subordinate, currently a Minister of State in Charge of the Civil Service.

Prior to adoption in 1946 of the general regulations to cover the entire civil service, each ministry had a great deal of autonomy over civil service policy. Two factors have since lessened that autonomous control; first, uniform regulations covering the civil service; second, as noted above, greater oversight and control emanating from more powerful chief executives. However, the individual ministries still continue to oversee day-to-day functioning of the civil service and shape civil service policy. For lower level employees in particular, the ministries retain much of their former power regarding recruitment and selection of personnel. So, despite the reforms, there remains a lack of standard civil service organization or a simple hierarchical pattern for all



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government departments.<sup>1/</sup>

One of the reasons this situation persists is that the Directorate was looked upon in the beginning as a research/reform organ rather than an administrative one. As a consequence, the Civil Service Directorate has been described as having only as much power as other departments were willing to recognize,<sup>2/</sup> and one must also look at those other organs which influence, shape, or govern outright civil service policy.

One of the most direct rivals of the Civil Service Directorate is the Budget Directorate of the Ministry of Finance, whose oversight extends to administrative staff organization.<sup>3/</sup> The Budget Directorate's power comes from the requirement in the 1946 regulations that the Minister of Finance must sign or countersign regulations on the civil service affecting budgetary considerations. As a result, the Budget Directorate is a strong rival of the Civil Service Directorate with regard to civil service policy, as well as day-to-day administrative decisions. Its effects are illustrated by a recent study in *Le Monde* that attributes personnel

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<sup>1/</sup> Blondel, J. and F. Ridley. *Public Administration in France*. Barnes and Noble, New York City [1969] p. 361.

<sup>2/</sup> Gregoire. *op. cit.*, p. 109.

<sup>3/</sup> *Ibid.* p. 111.

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morale and administrative problems in the Foreign Ministry in part to budgetary constraints.<sup>1/</sup>

More competition for the Civil Service Directorate comes from Administration Committees located at prescribed levels in all government agencies which review personnel management decisions by the administration executives.<sup>2/</sup> These committees are formed for groups of civil servants governed by the same set of special regulations and for whom there is an identical career ladder. The minister at the head of any agency appoints two members to each committee, while civil servants from the rank represented by the committee elect the remaining two members. Those chosen may not be official union representatives. The committees have fairly wide powers of review over permanent appointment of civil servants, ratings, promotion rosters, disciplinary measures, and movement of civil servants; either by internal transfers, or posting to positions outside the civil service. They thus provide a voice for civil servants regarding management.

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<sup>1/</sup> Delarue, Maurice. "Le Quai dans les Brumes." Le Monde. October 10, 1975: 1.

<sup>2/</sup> The most important personnel management responsibilities of a civil service manager involve both the power of nomination, i.e., appointment, and notation, the evaluation process governing advancement of officials who were selected for promotion according to their position on annual promotion lists. Catherine, Robert. Le Fonctionnaire Français. Editions Sirey, Paris [1973] p. 120.

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The civil servants also have a voice through employee associations or unions, which the regulations permit. It is estimated that more than 80 percent of the civil servants in France belong to a union, and <sup>1/</sup> recognition has been given to the unions as a management participant. The primary method for this participation is equal representation on numerous Technical Committees and on a Higher Council of the Civil Service created in 1946. The Council was intended to arbitrate between the state and its employees while the Technical Committees were designed to take a close look at, and recommend changes in, the administration of the state's affairs. Now, however, both institutions have apparently lost most of the power they may have had at one time. The Technical Committees have sunk to adjudicating individual grievance cases, or to just reviewing civil service procedures. As a result, senior officials tend to downgrade them in favor of settling disputes more directly with the unions.

The unions' contribution to the welfare of the civil servants is not unquestioned. One critic has characterized them as para-government organizations with similar bureaucratic and technocratic

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<sup>1/</sup> Moreux, Gilbert. "Ambiguous Unionism." International Journal of Politics. Summer-Fall, 1972 Vol. II, No. 2-3: 147-48.

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attributes so that they are actually supportive of the well entrenched bureaucratic interests with which they are supposed to deal.<sup>1/</sup> In this view, unions merely interpret for the employees the administration's policy, and only use expertise in personnel policy rules and regulations in an innocuous way. Another observer criticizes the narrowness of the unions' outlook. He notes that they are organized in the vertical fashion which characterizes the administrations they represent, and do not transcend the bureaucratic particularism strongly maintained by the agents conducting the state's business.<sup>2/</sup> This results in lack of a broader common voice about issues facing all the member civil servants.

All this does not mean the unions are incapable of organizing job actions. In the case of unnegotiable dispute, the union's final recourse is to strike. The 1946 Constitution recognizes the right to strike for France's citizens, and in the absence of any determination by the National Assembly, civil servants are understood to share this right. Nevertheless, the reality of a strike by state employees whose services are essential to the general public is not accepted without debate, and remains unclear to a certain degree. Government decrees proscribe

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<sup>1/</sup> Ibid. p. 147.

<sup>2/</sup> Dautrive, Claude. "Sit Down Strike in a Ministry." International Journal of Politics. Summer-Fall 1972, Vol. II, No. 2-3: 144.



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or set limits on strikes for certain employees determined indispensable to the state and public welfare. In response a common tactic employed by the unions has been to hold one-day stoppages and slowdowns. A rash of these broke out in the fall of 1974 over wages. During that same period, a wildcat strike by low-paid mail sorters also broke out, and completely disrupted communications for several weeks. This strike rekindled debate about the legality of such actions and the status of the relation between public servants and the nation when they strike.

Among other means of control over the civil service, the Conseil d'Etat (Council of State) is one of the most powerful. It is France's highest court, rests at the summit of an administrative tribunal system, and according to the Constitution, must examine draft regulations, be consulted on government ordinances, and considers government decrees which modify legislative measures of a regulatory nature.<sup>1/</sup> The Conseil is not part of the Prime Minister's Government so that it holds a well-established independent position as a guardian of the public's interest and is appealed to in such terms.

As an administrative court the Conseil and its lesser tribunals intervene in civil service affairs through wide investigatory powers. Respect for the Conseil's prestige adds power to its voice. It also functions as a court of appeal for members of the civil service with cases against the government related to employment. One writer has

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<sup>1/</sup> de Baecque, Francois. L'Administration Centrale de la France. Armand Colin, Paris [1973] p. 299.

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commented that the Conseil tends to take just enough action to ensure review of the case and the court's recommendations by the minister concerned.<sup>1/</sup>

Thus, in France application of rules and regulations is closely watched by non-administrators with prestigious positions at the top of the public service hierarchy. The right of civil service employees to appeal to a court does have certain drawbacks. The most important is encouragement of a tendency to write extremely detailed regulations covering all conceivable situations, and rigorous application of them to avoid the watchdogs, who seem to inflict punishment at the slightest infraction. The end result is a complex and rigid set of rules and regulations which have created difficulties in interpretation, sometimes solvable only in the administrative courts.<sup>2/</sup>

The picture presented thus far makes the civil service appear less uniform than it really is. Actually, in spite of several layers of control, varied inputs, and apparent bargaining over how the public administration runs itself, the body of civil servants continues to present the impression of a cohesive, well ordered, elitist group. This is an accurate picture because concern for fairness and security has led to the creation of clearly established and practically inviolate rules. Outside intervention is difficult, and ministers who want to make changes are usually confronted with stiff resistance from

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<sup>1/</sup> Gregoire. op. cit., p. 108.

<sup>2/</sup> Gregoire. op. cit., p. 90.

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the highest civil service cadres. The recruitment-selection process as well as the rigid and predictable career patterns well-developed over many years further isolate the body of civil servants from outside manipulation and create a different world for them from that of the typical Frenchman.

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### III. Career Civil Servants

A career in the French civil service is a fairly well-defined and structured matter. One's entrance ensures lifelong employment in the state administration. Consequently, entrance requirements are rigorous, particularly for the higher career levels, in view of the French system of identifying at a very early stage the new entrants who will join a super elite and be groomed for the highest public administrative posts.

#### A. Structure

The 1946 General Regulation divided France's civil servants into four general categories -- A,B,C, and D. Category A is the administrative class, B the executive (secretariat) class, Categories C and D, clerical, typist, and messenger classes. Superimposed above Category A, but considered to be part of it are the elite cadres forming the grands corps. The three key administrative grands corps are the Inspectorate of Finances, Audit Court, and Conseil d' Etat.

The civil service structure is analogous to a stack of pyramids representing the separate categories, each higher one balancing on the apex of the one below. Moving from the bottom to the top of the whole structure is not envisaged as a normal career pattern. Moving from one pyramid to the next can only be accomplished by passing competitive examinations, with the only exception provided by provisions in a February 1959 Ordonnance allowing the appointment of five-to-ten-year employees to ten percent of the entrance grades of a superior category.



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The following table breaks down by category the 1,913,000 central administration public servants and military personnel employed in France in 1970. The total includes teachers, who are civil servants in France.

State Employees in 1970<sup>1/</sup>

Category A	16%
Category B	26%
Categories C and D	26%
Military	16%
Contract and others	14%

The figures in the table represent the whole civil service, and the proportions of employees by category vary for each ministry. For example, in the Foreign Ministry, there are currently 1,287 established Category A employees, 597 Category B, 3600 Categories C and D.<sup>2/</sup> One analyst, however, has complained that the categories never were, or have ceased to be, a true indication of the divisions and ranks in the civil service, and one must look to the pay scales.<sup>3/</sup> But they too may not be an accurate indication, for a report about the system in the Foreign Ministry notes, "office boys who are hired for the lowest salary scale (1,415 f. per month) work for years on end requiring technical skills but without obtaining a corresponding wage."<sup>4/</sup>

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<sup>1/</sup> Government of France. Le Secretariat General du Comite Interministeriel pour L'Information. Les Agents de L'Etat. Actualities-Service, No. 77, May 1970: 1.

<sup>2/</sup> Delarue. op. cit. p. 8.

<sup>3/</sup> Gregoire. op. cit. p. 137.

<sup>4/</sup> Delarue. op. cit. p. 8.

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Nor is promotion in the various categories uniform across the whole civil service, despite standardized promotion procedures. The General Regulations of 1946 were to a certain degree superimposed on existing practices so that many different special regulations exist which make for promotion patterns peculiar to the various corps and ministries.

The number of employees and percentages at various levels are not uniform either, with the differences in some cases quite substantial. In the Ministry of Posts, Telecommunications and Telegraph (PTT), 75 percent of the civil servants reach Category A positions through PTT's internal promotion policies. In the Interior and Finance Ministries, employees in Category A jobs equal 49 and 45 percent respectively. Category A employees in other Ministries range from 23 to 28 percent.<sup>1/</sup> Such observations suggest that although the French bureaucratic system appears rigidly structured, it in fact allows widely divergent situations that do not conform to the postwar plans to standardize personnel policy for the whole administration to exist in the various ministries and corps.

#### B. High Level Career Promotion

Formal education is the initial major determinant of upper level career advancement and the state has created a graduate educational system to train its civil servants. The two most prestigious schools are the Ecole Polytechnique and the Ecole Nationale d'Administration (ENA). Political science, economic and law graduates enter a three-year ENA

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<sup>1/</sup> Darbel, Alain, and Dominique Schnapper. *Le Systeme Administratif*. Paris, Mouton & Co. [1972] p. 69.

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course to begin their civil service careers, while the technical students go to the Polytechnique or similar state graduate schools for other fields.

The Government opened the Ecole Nationale d'Administration after World War II to standardize, on a national level, the entrance process for the higher administrative posts and to break the monopoly of a private school in Paris whose selected graduates dominated the administration. Previously each ministry decided its own entry requirements. Now the graduates of the ENA choose from, or are assigned to, all the administrative departments, thereby assuring a common background for the highest non-technically trained civil servants.

To enter ENA and other grandes écoles (civil service schools), applicants must have certain university degrees and pass highly competitive examinations testing their academic knowledge and ability to plan, write, and present information orally. Testing of non-intellectual abilities occurs when students are later attached to a ministry for practical work as part of the school course. New civil servants must also pass through a probationary period of one to two years before they become established civil servants and "take possession " of their posts.

The students at ENA are either university graduates or previously established civil servants. The majority are graduates of an Institut d'Etudes Politiques, practically the sole source of university training preparing candidates for the ENA examinations. Fifty-five of sixty-two ENA entrants in 1969 came from such an Institut, and fifty-three of them

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were from the Institut in Paris. The other thirty-one entrants in the 1969 ENA class passed through a second competition for ENA reserved for established civil servants. Candidates must prepare for this competitive examination on their own. Because of this difficulty the proportion of the civil servant proponent in the ENA classes has dropped over the last 20 years.<sup>1/</sup>

The top twelve to twenty graduates of an ENA class can count on an excellent career. These top graduates may select from among openings in the grands corps, such as the Inspectorate of Finances, Audit Court, Conseil d'Etat, Prefecture, and Foreign Ministry. The ENA's importance is evidenced by such distinguished graduates as President Giscard d'Estaing, the Prime Minister, the Minister of State, the Minister of Finance, and five Secretaries of State in the current Government.<sup>2/</sup>

For the technical fields, a parallel situation exists for top graduates from the Ecole Polytechnique who enter equivalent grands corps of technicians, notably in the Ministry of Civil Engineering (Ponts et Chaussées) and Ministry of Mines. These highest technical corps also enjoy an equal level of prestige rivaling that of the administrative elite.

The highest regular career position in the public administration is a directorate in charge of a major administrative group or service in one of the government departments. A director is usually nominated by an

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<sup>1/</sup> Suleiman, Ezra N. Politics, Power, and Bureaucracy in France. Princeton, Princeton University Press, [1974] p. 54.

<sup>2/</sup> Carriere, Jean. "Defense de L'ENA." Le Monde, October 11, 1975: 8.



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appropriate minister and appointed by an official decree signed by the president and prime minister. Directors practically never come from outside the civil service.

The career pattern leading to a directorship is so well established that some civil servants boast they can name those who will be appointed to head various directions in ten years based on their knowledge of current positions and individuals.<sup>1/</sup> Such predictability results from principles guiding the civil service, traditions, and to a large degree from rivalries among the grands corps, which have well established claims, colonies almost, to certain posts. Sometimes, a member of one corps may be picked to head a direction of a ministry not associated with his corps' particular area of competence. And in some cases, ministers are practically forced to appoint designated successors to directions given the strength of a particular corps and importance of the post involved.

According to results of interviews with recent directors, the most important qualifications for appointment to a directorate are: 1) corps membership; 2) professional competence; 3) numerous important contacts from previous assignments.<sup>2/</sup> The last point refers primarily to an important stage in the career of many top civil servants, participation in a minister's cabinet.

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<sup>1/</sup> Suleiman. op. cit., p. 142.

<sup>2/</sup> Ibid. p. 145.

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The cabinet is formed of ten or more individuals selected as personal administrative assistants to a minister. As many as 90 percent of the cabinet members come from within the civil service cadres. These selected officials find themselves elevated to important positions above the career civil servants in that particular ministry. When they complete such an assignment, usually two to three years, they often return to their career positions with the knowledge they have acquired contacts and political pull that should get them a directorate. One analyst cited collaboration with a minister as "indispensable" for a civil servant aspiring to the highest positions in public administration.<sup>1/</sup>

Current literature suggests as a typical career pattern the following: Graduation from university followed by entrance to the Ecole Nationale D'Administration or Polytechnique. Entrance in a grands corps at age 25-27 for students, or 30-35 for civil servants who attend a grande ecole thanks to the second competition provided them. Performance of corps duties up to five years, followed by a two-year stage in another service. Appointment to assistant head, or head of a service. As soon as possible, detachment from the grand corps to an administrative post "reserved" for corps members. (This is where the power of the corps lies, for example, 3/4's of the Inspectorate of Finance are détachés -- on loan -- at any given time to fill administrative management positions. A position in a cabinet practically ensures future advance-

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<sup>1/</sup> Siwek-Pouydesseau, Jeanne. "French Ministerial Staffs," in The Mandarins of Western Europe. Mattei Dogan, ed. New York, John Wiley & Sons [1975] p. 199.

ment to a directorate.

A recent survey determined that half of the directors at the time had served in a cabinet, and one third of these had been in the cabinet just before their appointment to the direction.<sup>1/</sup> The timing works out so that these capable individuals reach the top at age 45-50.

Once reaching these heights, many career civil servants commonly move on to the private sector or to executive positions with the state owned enterprises, where they will receive higher salaried positions than those in the civil service. As another extension of their personal careers,<sup>2/</sup> a larger number of civil servants have been choosing a political career by way of election to the National Assembly.

#### C. Lower Career Progression

At most levels the careers of lower grade civil servants are well defined and predetermined much like those of the members of the grands corps. ENA graduates who do not make it into a grand corps become Category A administrateurs civils. They are the next highest established officials in the administration, but they cannot usually aspire to the very top posts reserved for the grands corps elites, because the French civil service is not constructed so one can enter at the very bottom and work to the top. Thus, one can consider the administrateurs

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<sup>1/</sup> Siwek-Pouydesseau. op. cit., p. 202.

<sup>2/</sup> Ibid. p. 203.

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civils a lower-level career group.

Beginning in 1964, the government tried to make the administrateurs a grand corps-like group. They were given as much choice as possible for their first post after ENA. Following a review of their performance after five years, they were also allowed to request transfers. However, complete self-management -- a mark of the grand corps -- has eluded them. Control over them is divided between the ministries where they work and the Civil Service Directorate.<sup>1/</sup> Such changes were probably due in part to concern about tensions created between the administrateurs civils and members of the grand corps who tend to look down on them, but the situation hardly seems to have changed.

Also in category A, but below the administrateurs civils who make up the majority at that level, is a lower grade of officials entitled attachés administratifs. These personnel are university graduates occupying positions formerly falling within the Category B level. Recruitment for this second echelon has been hampered because the jobs are recognized as being second best. Organization of these positions is poor in the sense that many hurdles bar the way to actual appointment and careers elsewhere are more promising. It is possible the attaché position was created to give university graduates a place to work while they waited to retake a grande école entrance exam as a civil servant.

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<sup>1/</sup> Blondel. op. cit., p. 324.



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Such positions as those of the attachés also appear to exist in order to offer promotion and advancement opportunities for civil servants. In keeping with creation of career steps, Categories A and B are often subdivided into two or three grades distinguished by responsibility levels, each grade associated with specific posts. Promotion in grade depends on discretionary selection by one's chief based on an annual promotion list. Because an employee has the right to appeal unfavorable action to immediate supervisors as well as to administrative courts, it is difficult for a supervisor to by-pass any employee who appears on the promotion list to promote someone ranked further down on the list.

Almost all the categories are further divided into classes and echelons which are simply different salary levels. Class promotions are similar to grade promotions, that is, they are discretionary. Echelon promotions are purely a function of time and rating, so that they are practically automatic.

#### D. The Rating System

The rating system used for employee evaluation has undergone several changes since World War II. Before 1946 no consistent scheme other than a general evaluation of intellectual and moral character existed to rate employees for promotion. Since then the regulations covering rating have changed to an analytical mathematical scheme and back again to a subjective one. An appraisal is based on a 0 to 20 scale, the same used for grading students in the educational system. Four areas are

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identified and specific questions about them used to guide the raters. The changes in the system reflected dissatisfaction with it, but such feelings appear to continue to exist. One analyst claims that in the Foreign Ministry many raters give all those evaluated an identical high score, then privately give the personnel administration their own real views.<sup>1/</sup>

The preceding discussion indicates the career principles governing the French civil service differ from the United States' open competition system. In France candidates for positions often may only be considered if they hold a certain civil post that fits in a career pattern; whereas in the United States, a candidate's qualifications are the main consideration. In France, qualifications count most for initial entry, with formal educational background and performance a predominant factor.

At the higher echelons, the grands corps provide greater fluidity and movement across large sections of the civil service and public administration. Supervisory positions affording great opportunity for rapid promotion come early for members of the corps. Nevertheless, even in the grands corps somewhat rigid career chains exist, and once a civil servant gets a certain post, or fails to, his future career becomes fairly predictable.

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<sup>1/</sup> Delarue. op. cit.

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Civil Service Pay Scales in France

The French Civil Service pay scales for officials in the lower ranks of the service (Bareme B) have been divided into 613 steps as of October 8, 1976. A leading French almanac has published a table showing the range of these salaries as of June 1, 1974. This table (with the figures converted into dollars as of that date) contains the following information:

Sample Salary Scales of Lower and Middle Grade French Civil Servants

(monthly salaries and basic allowance in dollars)

<u>Index No.</u>	<u>Gross Salary plus Basic Allowance</u>	<u>Index No.</u>	<u>Gross Salary plus Basic Allowance</u>
128	\$209	\$475	\$774
150	245	500	815
175	285	525	856
200	326	550	897
225	367	575	938
250	408	600	978
275	454	625	1019
300	489	650	1060
325	530	675	1101
350	571	700	1141
375	611	725	1182
400	652	750	1223
425	693	775	1264
450	734	783	1297

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<sup>1/</sup> Encyclopedie QUID 1975, Paris, Editions Robert Laffont, 1975, p. 42-43.

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A table of the salaries of high officials is also given as follows:

Salary Scales of Higher Civil Servants (Categorie hors echelle)

(monthly figures in dollars)

<u>Class</u>	<u>Gross salary plus basic allowance</u>	<u>Class</u>	<u>Gross salary plus basic allowance</u>
A 1	\$1391	C 1	\$1775
2	1432	2	1816
3	1493	3	1860
B 1	1493	D 1	1860
2	1585	2	1951
3	1677	3	2043
Bbis 1	1677	E 1	2134
2	1725	2	2226
3	1775	F	2469

French civil servants also receive supplementary allowances based on the number of their children. The allowance for a top civil servant with two children runs between \$100 and \$120 a month. Since 1974 French civil service pay and allowance have been increased by roughly 27 percent.

In addition French officials benefit from a complex system of special allowances and prerequisites. Special bonuses (primes) may be added. These special bonuses vary from one ministry to another. High-ranking officials are often provided with living accommodations in government-owned houses or apartments at favorable rents. They have official cars and drivers assigned to them. They can draw on liberal entertainment allowances. These advantages may add considerably to the rewards of their office. However, it is difficult to calculate these advantages in a systematic way without engaging in a case-by-case analysis.



#### IV. Political Control and the Civil Service

Under the Third and Fourth Republics (1871 to 1958) in France, parliamentary democracy fostered political instability. Shifting political coalitions in the National Assembly caused many changes of government, so that ministers in charge of government departments frequently changed jobs. These ministers, occupied by party politics, could not attend to the actual functioning of the administrations for which they were responsible. Moreover, the civil servants did not expect them to remain in office for a very long time, a view supported by the fact that under the Fourth Republic a minister's average time in office was just 0.7 years. Civil service directors, however, lasted an average 4.3 years, indicating that a change at the top of a ministry did not engender a general house-sweeping of top civil service management.<sup>1/</sup>

Although management of the civil service was not centralized but remained the autonomous responsibility of the ministries, a great deal of supervisory input was provided by the grands corps of elite civil servants. In sum, routine administration of government was noted for the stability and efficiency of its management. But these administrators' concern for order and stability also earned them criticism about an inability to innovate and change.

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<sup>1/</sup> Suleiman. op. cit., p. 152.

Formation of the Fifth Republic to include dominant executive power vested in the President altered the relationship between the civil service and political elements of government in France. Ministers under the Fifth Republic have had their formerly close ties with the legislature cut by a law which requires a minister to resign his parliamentary seat once named to a government. Freed from time consuming parliamentary politics, they have more time to devote to administration. There is still no question, however, of the ministers being involved in day-to-day bureaucratic business; but they do have the opportunity to acquire greater expertise about the public administration departments they oversee.

Another factor altering the bureaucratic-political relationships is the existence, since 1962, of a well organized majority ruling coalition in France; centered around the Gaullist party. The ascendent political party has more influence with the ministers and cabinet, and thus a direct link to the administration. Most new ministers appointed to the government come from the same majority, so that viewpoints about policy are consistent. And, the ministers themselves are more tightly controlled under the increased power of the president and prime minister, who have the capability to monitor ministerial handling of civil service affairs.

This strength of the government is probably the most important new factor in the balance between administration and politics. Headed by a popularly elected president the government is able to back its ministers when they confront civil servants over policy issues or reforms

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of the civil service itself. In the past such confrontations could have resulted in the fall of the government if parliamentary politics became involved. In the Fifth Republic several such reform and policy struggles between a strong or determined minister and cadres of the administration have been won by the minister concerned, with the backing of the Government, President, and most likely, the majority party.<sup>1/</sup>

One final consideration regarding influence of politics on the bureaucracy is the increasing presence of former civil servants in political posts. De Gaulle appointed some civil servants directly to ministerial positions, and only later came to request that they stand for elections to the National Assembly from which they then resign to be a minister. Other top civil servants run for election on their own. In any case, the presence of these individuals provides greater knowledge of administrative affairs at higher political levels and increases the potential for political influence over the administration.

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<sup>1/</sup> See Suleiman, op. cit., pp. 170-177.

## V. Administrative Influence on Politics

Before considering the ministerial cabinets, where politics and bureaucratic interests intersect, some discussion of administrative influence over politics should be helpful. Top civil servants are constantly leaving public administration to enter politics or serve as executives in private or state-owned industry.<sup>1/</sup> They constitute a powerful group able to approach the administration as representatives of their new interests; but, they also carry their administrative experience and viewpoints to their new positions. Thus, in France a large body of management officials with a clear understanding of the state administration can view their current interest in the light of their experience of the public administration which they once served.

This frequently occurs when inter-ministerial infighting leads weaker ministries to enlist support from representatives of professional organizations or major industries over which the weaker ministry has regulatory

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<sup>1/</sup> Positions on the boards of directors of public enterprise have even become "colonized" by the grands corps of the civil service. Derivry, Daniel. "The Managers of Public Enterprises in France," in Dogan, Mattei, ed. *The Mandarins of Western Europe*. op. cit., p. 212. Movement out of the civil service into the private sector occurs at all the important levels of the civil service. In fact, some ENA graduates refund the cost of their education to the state and immediately accept a private enterprise position. Practically no countervailing reverse movement exists. Appointment of outsiders to high civil service positions where permitted that were designed to aerate the service no longer occur as they did in the past. If outsiders are desired, they usually appear in the minister's cabinet. A need for outsiders is nonetheless recommended even by admirers of the ENA. Carriere. op. cit., p. 8.



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power. Usually such confrontations are with the powerful Ministry of Finance over funding or approval of programs and policy. The result is a situation in which civil servants and various interest groups may present mutual points of view on policy to ministers and politicians. Such occurrences support claims that the bureaucracy under the Fifth Republic is entirely too influenced by interest lobbying. In defense, administration officials claim they only consult outsiders after policy, regulations, or decrees have been decided on or drafted.<sup>1/</sup>

Administrative interests are also promoted by civil servants appointed to be close personal advisers to ministers in their cabinet. At this level, civil servants tend to be politicized, clearly aware of the political considerations important to their chief.<sup>2/</sup>

Holding (or withholding) information is another means civil servants employ to gain influence with politics and politicians, or even other branches of the administration. Many administrative services try to be the sole source of detailed information required for decision making and planning. However, by using their own information, experienced ministers who have developed expertise, can, with their cabinets, break through such closed and secretive administrative agencies. Such struggles most often occur in the ministerial cabinets, the meeting place of political and administrative interests. When political and bureaucratic interests collide political power in the cabinet tends to hold sway over the administration.

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<sup>1/</sup> Suleiman. op. cit., p. 333.

<sup>2/</sup> Suleiman. op. cit., p. 373.

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#### A. The Cabinet and the Bureaucracy

According to a survey of directors, "the fact that the minister himself and his cabinet, ... are the most popular targets for interest-group intervention undoubtedly reflects the increasing concentration of power in the hands of the cabinet. This is also true, as was noted, in the case of the deputy, who now confines his contacts to the minister and his cabinet."<sup>1/</sup> The administrative bureaucracy, however, does not lose contact with these interest groups and politicians, for as often as not, the minister or his cabinet representatives refer inquiries and requests to appropriate administrative services. Still, the power of the cabinet comes in part at the expense of the regular administration.

Although a minister is restricted by law to ten or twelve staff appointments for a cabinet, (with some exceptions), cabinets tend to get much larger and form a considerable entourage. Conseillers techniques and chargés de mission are the cabinet officials who meet with directors and often develop close ties with lower level administration, for despite the increased ability of ministers in the Fifth Republic to learn about the administrative agencies they head, their direct control does not reach very far down into the bureaucracy.

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<sup>1/</sup> Suleiman. op. cit., p. 331.

A civil servant's membership in a cabinet may present some difficulties. Those who have been appointed from the civil service sometimes find their loyalties divided: on the one hand subservient to politically oriented viewpoints and policies of the minister to whom he owes his position; on the other, allegiant to the administration from which he came, and to the director for whom he may have previously worked, or may possibly work for as a civil servant upon resuming his career in the regular administration.<sup>1/</sup>

One analyst notes, however, that civil servants in cabinet positions view themselves as an administrative-political elite, are well aware of the political import of their administrative tasks, and are not adverse to taking political considerations into account when managing administrative affairs for the Ministry.<sup>2/</sup>

Nor is such political awareness restricted to just those civil servants elevated to cabinet positions. Directors, who are appointed on the recommendation of ministers, cannot escape acknowledgment of their immediate supervisors' interests. Should these top civil servants disagree with policy, or resist it, they can often expect to see a cabinet official "politicize" or alter their suggestions and recommendations for final ministerial consideration. They may even

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<sup>1/</sup> Such a situation exists more often in the Finance Ministry and others like it where many of the cabinet members come from and return to a Finance direction, in keeping with well defined internal career patterns. Suleiman. op. cit., p. 254.

<sup>2/</sup> Suleiman. op. cit., p. 372.

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find themselves pushed aside and their administrative responsibility handled directly by the cabinet member with responsibility for that particular administrative area, who then acts as the actual head of the administrative agency.

Existence of a parallel administrative apparatus embodied in the cabinet sometimes results from and is perpetuated by a view that the regular bureaucracy is too static to be trusted or is incapable of enacting policy desired by the political decision-makers. The cabinet appears to be able to cut through administrative tangles to accomplish more direct, and innovative action. Furthermore, these attitudes about inefficiency are continued and augmented to some degree because three-fourths of the cabinet directors usually come from one of the grand corps as do many of the conseillers and chargés, and they collectively tend to view the regular civil servants as unequal to their tasks.<sup>1/</sup> Such attitudes also often reflect rivalries and tensions between certain corps.<sup>2/</sup>

Another dividing factor between the cabinet and the administration is the fact that a majority of cabinet appointments result from personal contacts and relationships. This situation supports a conclusion that many ministers view the civil service as a powerful collective adversary. The result is a tendency to create a buffer in the form of the cabinet between the minister and the administrative bureaucracy.<sup>3/</sup>

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<sup>1/</sup> Siwek-Pouydesseau. op. cit., p. 207.

<sup>2/</sup> Gournay, Bernard. Higher Civil Servants in France, in Dogan, Mattei., and Richard Rose, eds. European Politics, A Reader. London, MacMillian Press Ltd. [1971] p. 504.

<sup>3/</sup> Siwek-Pouydesseau, op. cit., p. 198. Gregoire. op. cit., p. 335.

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One final factor contributing to the cabinet forming a separate administrative level comes from the attitudes of some high level administrators who view themselves as apolitical or "above" politics. In this case, these bureaucrats use the cabinet as a screen to separate themselves from politics. In sum, they do not care to admit that the "civil service cannot be kept from political realities,"<sup>1/</sup> and it is such an attitude which allows the cabinet a more dominant administrative role.

#### B. Appointment of Top Level Executives

A minister is also almost entirely restricted to appointing directors from within the civil service. The previous practice of ventilating the civil service with intermediate and high level appointments from outside civil service cadres has nearly halted. The corps of administrators find it difficult to work for someone they regard as an outsider, and they question such a manager's knowledge and understanding of public administration or his ability to safeguard the interests of the bureaucracy.<sup>2/</sup>

Although the Conseil d'Etat has recognized that top civil servants are removable for political reasons because they are appointed under special regulations, it is often difficult for a minister to just "fire" a director. First, the shock to the administration would be great, and probably counter-productive for future cooperation between a minister

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<sup>1/</sup> Suleiman. op. cit., p. 207.

<sup>2/</sup> Gregoire. op. cit., p. 58. Suleiman. op. cit., p. 138. Delarue's article on the Foreign Ministry also points to morale problems because of a number of personnel who have not entered the ministry through regular competitive examinations, but came in from other French diplomatic or foreign affairs agencies.



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and his administration. Second, such a sacking would most likely require approval of the prime minister's, or even the president's office, particularly if it is a new minister who has done the firing. Finally, those directors at the summit of an important administration, one usually having a firmly recognized hierarchy, are the most difficult to remove because of the power of the grands corps behind them. Moreover, such directors usually have a successor who is essentially in a predetermined holding pattern, with the result that a minister would have a difficult time appointing someone else to the position.<sup>1/</sup>

Nevertheless, in hiring or firing disputes, as well as in administrative policy, it appears that if a critical situation arises a minister will prevail in the end. If necessary a director will be dismissed outright, but his minister must usually find, according to precedent, a sufficiently prestigious position for him elsewhere. Still, the traumatic shock of such a removal is considerable,<sup>2/</sup> and could not be realistically accomplished without the firm backing of the Government. In sum these conditions coupled with the practice of depending on career civil servants at such high echelons simply provide greater influence over governmental decision-making for the administrators.

These factors have generated criticism of the French system from several quarters. One basic criticism has been the unregulated nature of appointment to the cabinet of civil servants, and the fact that appointment of directors is not governed by anything more than special regulations. The general regulations on the civil service and their amendments

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<sup>1/</sup> Suleiman. op. cit., p. 148.

<sup>2/</sup> Suleiman. op. cit., p. 142.

appear to focus on maintaining equality, security, and fairness for the careers of the civil servants and protect them from caprices of the politicians; but they do not guarantee independence of the administration from political considerations. In fact, at the highest levels control of personnel matters is noticeably absent. In the end critics can also point to the cabinet as another area of the administration colonized and dominated by the grands corps.<sup>2/</sup>

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1/ Gregoire. op. cit., p. 356.

2/ Smith, Gordon. Politics in Western Europe. London, Heinemann Educational Books Ltd. [1972] p. 218.

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## VI. Conclusion

The system described above is elitist to the core. It has aimed to build a closed bureaucracy whose members are chosen on the basis of severe educational and intellectual standards and then trained in state graduate schools for long-term government service. Officials destined for high offices are selected early in their careers for rapid advancement.<sup>1/</sup> Moreover, they are often shifted from one ministry to another as they pursue their high level career ladder. This has tended to develop throughout the bureaucracy an unusually high degree of community of outlook, professionalism, and esprit de corps, all characteristics which have contributed to the French propensity for centralized government planning.

The French civil service has not adopted the American practice of filling civil service positions on the basis of open competition in which outsiders can enter government service at any level if better qualified for the job in question than civil service competitors. The French method has discouraged interchange between the bureaucracy and the private sector along the American "inner-outer" lines. However, the movement of French civil servants to top private sector positions after they have reached the top rung of their public administration ladder

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<sup>1/</sup> A majority of the 1971 ENA class protested this practice and the unbalanced assignment of top graduates away from "needy" departments by signing a pledge to not accept a grand corps position. Four of six who signed the pledge did refuse a grand corps post, but the effect of their protest was minimal. Suleiman. op. cit., p. 89.

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has expanded a commonality of interest to a more general segment of the upper echelons of French society.

Chief characteristics of the French system have been a high degree of rigidity, discipline and aloofness, which have created the image associated with the Chinese "Mandarin" system of government. One cannot discount, however, the immense prestige enjoyed by top level career civil servants in France. At an early age, men and women of great ability and ambition are attracted by job security and the knowledge they can reach the highest levels in France where public policy is decided.

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THE CIVIL SERVICE IN THE FEDERAL REPUBLIC OF GERMANY

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INTRODUCTIONOrigins of the Civil Service

The German civil service often is presented as the classical public administration model. Patterned on the Prussian bureaucracy, it was built by Bismarck into the backbone of the German government. Traditionally, German civil servants were known for their loyalty, dedication, and efficiency; their ability to serve equally under different governments and systems, thereby maintaining a thread of continuity through the turbulent years of the twentieth century. Radical changes in government, as from the Second Reich to the Weimar Republic and then to the Nazi/Third Reich were not accompanied by any sizeable overhaul of the civil service system or its personnel, although the Nazi leadership did fill a number of higher level positions with its own men. This unquestioning loyalty also has evoked considerable criticism.

The Post-War Civil Service

Following World War II and the complete dismantling of the German government under Allied occupation, a new administrative system had to be established. After considerable debate over alternative systems, the civil service was restored basically in its pre-war form. There has been much debate over the need for reform in subsequent years but few changes have been instituted. The main changes which have occurred in the last two decades have been visible in the self-image of civil servants and in the general public attitudes toward the civil service.

SOCIAL POSITION OF THE PUBLIC SERVANT

Historically, civil servants were the most respected elite in German society. This prestige stemmed in part from the fact that the higher

service drew its personnel almost exclusively from the aristocracy. High status together with the power and privileges that accrued to it, to some extent, compensated for the modest salaries which prevailed.

The post-war Federal Republic's civil service retains much of the power and other job benefits of its predecessor but the social standing of the civil servant has declined significantly. The loss of prestige has been traced to the collapse of the Nazi Third Reich, which left the civil service demoralized and discredited. Another factor affecting the image and position of the civil service has been the change in its class composition. The bureaucracy has become increasingly middle class under German democracy. Furthermore, recruits no longer necessarily represent the brightest group among university graduates as they once did. Private industry, with its <sup>1/</sup> higher salaries, is attracting more top graduates.

On the other hand, the general German attitude toward civil servants remains basically positive, even if the service is no longer viewed as a special elite. According to a recent poll, two-thirds of Germans give the civil service a favorable rating. <sup>2/</sup> It has been pointed out that unlike professional American civil servants who perceive themselves as lawyers, economists, engineers, etc., German civil servants still derive their primary <sup>3/</sup> job satisfaction from their role as civil servants.

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<sup>1/</sup> Johnson, Nevil. Government in the Federal Republic of Germany: The Executive at Work. Oxford, Pergamon Press, 1973: pp. 142-152.

<sup>2/</sup> Smith, Gordon. Politics in Western Europe: A Comparative Analysis. London, Heineman, 1972. p. 234.

<sup>3/</sup> Jacob, Herbert. German Administration Since Bismarck. New Haven, Yale University Press, 1963. p. 202.

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ORGANIZATION OF THE GERMAN CIVIL SERVICE

The Government of the Federal Republic of Germany employed over 2.1 million people in 1970, excluding members of the armed forces, postal and railway services. Under the Federal system, the administration of the government is carried out at the federal, state, and local levels. Officials at all three levels have civil service status. The organization, make-up, requirements, compensation and other characteristics of the three public-service levels are very similar and there is considerable movement between levels of government. Under the German system, most day-to-day functions of government are carried out at the state and local levels. In many cases the federal ministries merely prepare legislation and have only restricted executive powers, with actual implementation of the directives carried out by the states. At the same time, the separation of jurisdiction is not as distinct, as in the American federal system and the authority of the federal ministries extends down through the state and local governments.<sup>1/</sup> As a consequence of the diffusion of responsibilities, the Federal government is smaller than the state and local governments. In 1970, the federal government employed 285,000 (excluding armed forces, railway and postal employees), the state governments employed 1,154,000 and the local governments employed 669,000.<sup>2/</sup>

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<sup>1/</sup> Herz, John A. The Government of Germany. New York, Harcourt, Brace, and World, 1967. p. 99.

<sup>2/</sup> Johnson, op.cit., p. 145.



Publicly owned enterprises in West Germany are generally administered at the local level. The exceptions are, aside from the railway and postal service, the Lufthansa national airline and Volkswagen which are administered at the federal level but have to a large degree been turned over to the private sector.<sup>1/</sup>

Administration at the federal level is carried out by the ministries. Each ministry is divided into sections headed by a ministerial director, who is the immediate subordinate of the minister and serves at the minister's pleasure. Technically the position of ministerial director is the only political appointment below the minister. The next rank of Ministerialdirigent (ministerial manager) is a civil service appointment with security and protection, although the position is not immune to political influence. Due to the small number of non-civil service positions within the ministries, the bureaucracy has a greater role in top-level decision-making than civil servants in most countries.<sup>2/</sup> Since much of the minister's time is occupied by party duties, civil servants are left in charge of a large share of ministerial functions.<sup>3/</sup>

In the absence of a central civil service commission in Germany, there is a strict body of laws and regulations which set qualification standards, promotion patterns, rights, privileges, pay scales, and the obligations of civil servants. Within the framework of these laws and regulations, the

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<sup>1/</sup> Herz, op.cit., p.99.

<sup>2/</sup> Dogan, Mattei, ed. The Mandarins of Western Europe. New York, John Wiley and Sons, 1975. p.93.

<sup>3/</sup> Herz, op.cit., p.98.

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individual ministries, agencies, and departments, at the federal, state, and local levels have complete charge of personnel selection and management.

#### Types of Public Employees

German government personnel are divided into three categories: officials (Beamte), employees (Angestellte), and workers (Arbeiter). All three categories are to be found at the federal, state, and local government levels. The three classifications are intended to reflect the types of jobs performed and are associated with different status in terms of benefits, rights, privileges and obligations. In fact, as the structure has evolved, there is considerable overlap among the groups and the distinctions are often blurred. As the civil service has grown over the years, the expansion has been most evident in the number of "employees". The percentage of officials in the service has declined, especially at the federal and local levels. The only sizeable growth among officials has been in the education and social services sectors.<sup>1/</sup> In many cases, positions ~~are~~ recently created are in the employee category whereas similar traditional positions continue to be placed in the official category.<sup>2/</sup> The perceived inequity in this arrangement is a major point of controversy currently surrounding the civil service. An illustration of the discrepancy is the fact that whereas railroad engineers are officials with the job benefits entailed, airline pilots are employees with far fewer fringe benefits.<sup>3/</sup>

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<sup>1/</sup> In Germany, teachers at the primary school, secondary school and university level are civil servants.

<sup>2/</sup> Ellwein, Thomas and Ralf Zoll. Berufsbeamtentum: Anspruch und Wirklichkeit. Dusseldorf, Bertelsmann, 1973. p. 155.

<sup>3/</sup> Ellwein, Thomas. Verwaltungspolitik in den 70er Jahren. Bad Godesberg, Deutscher Beamtenverlag, 1968. p. 15.

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Workers. This category consists essentially of the blue-collar workers in the public sector. The benefits, privileges, and obligations of civil service status do not accrue to positions in the worker category.

Employees. Initially, this category consisted of lower white collar positions, including secretarial and clerical jobs. As indicated above, the distinctions are no longer valid and there has been a tendency to place new job types in this group. Employees are under a contractual relationship with the government. They lack civil service tenure and many other benefits.

Officials. The Beamte class corresponds to the career civil service in other countries. It is this category which has traditionally enjoyed the prestige, job security, and other benefits for which the public service has long been known.

Officials are divided into four classes or ranks. These are related to educational and other requirements on entry into the service, as well as the type of job performed. Here, too, the distinctions are sometimes blurred.

Basic service. This group generally performs manual and clerical work and the basic requirement for entry is a secondary education to age fifteen.

Middle service. Consists of more responsible clerical positions. The middle service has the same educational requirements as the basic service, but includes a longer probationary period and an examination.

Executive service. This rank includes lower level administrative positions which do not entail policy-making responsibilities. The requirements for entry include a high school or technical school diploma (education to age eighteen), followed by a three-year probationary period and successful passing of an examination.

Higher service. This category is the German public service elite. A university degree and an extended probationary period are required for admission. Acceptance in the higher service opens the door to advancement to the highest echelons of government.

This four level-structure of the civil service is very rigid. The requirements for each are established by law and passage from one category of official to another is virtually impossible.<sup>1/</sup> The higher service includes approximately ten percent of officials.<sup>2/</sup>

#### RECRUITMENT AND TRAINING

Writers note that the German heritage of a guild culture has left a system in which everyone must be trained, tested, and licensed to hold a position. This is true of specialized fields but also of the more menial occupations. It seems to hold true for the civil service at all levels.<sup>3/</sup>

According to the German constitution of 1919, "all citizens without distinction, in accordance with the laws and corresponding to their ability and achievements, are eligible for public office."<sup>4/</sup>

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<sup>1/</sup> Johnson, op.cit., p. 144-150.

<sup>2/</sup> Herz, op.cit., p. 100.

<sup>3/</sup> Jacob, op.cit., p. 202.

<sup>4/</sup> White, Leonard D. [and others]. Civil Service Abroad. New York, McGraw-Hill Co., 1935. p. 196.

This remains the rule regarding civil service recruitment in the present day. In contrast to the system existing in the U.S. and many other countries, entry into the German civil service is non-competitive. The requirements for each level of public service are established by law and cannot be bypassed. However, there is no merit system for choosing among candidates who meet the legal requirements of a position. Departments and agencies have almost complete discretion in this regard.<sup>1/</sup>

As noted previously, entry into the higher service requires a university degree and a state examination which provides the license to enter the higher service. Upon entry into the civil service, the university graduate must spend several years as a probationer (Referendar). During the probationary period, similar to an American internship, the recruit is rotated into different administrative departments, as well as the courts. The probationary period is followed by a second examination which leads to full membership in the civil service. The stringent requirements for entry into the higher service apply in the federal, state, and local governments. The similarity in requirements accounts for the fact that there is no significant difference in status associated with the different levels of government.<sup>2/</sup>

Entrants into the higher service are not required to hold a degree in a specific field. In practice, most officials of the higher service have law degrees, with specialization in administrative law. Public administration was introduced only recently as a field of study in German universities.

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<sup>1/</sup> Johnson, op.cit., p. 147.

<sup>2/</sup> Smith, op.cit., p. 230.



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The heavy representation of lawyers in the civil service may account for the German tradition of legal consciousness and legalism among bureaucrats. <sup>1/</sup>

The German law faculties are said to perform the role of British Public Schools and the French Grandes Ecoles in preparing students for public service. <sup>2/</sup> Today there is a slight shift away from legal education as the sole preparation for public service. Greater numbers of economists, political scientists, and graduates in other fields are entering the civil service.

Entry into the civil service is open to all qualified applicants by law. However, admission into the higher service can be genuinely open only to the extent that the University system, itself, is open to different social classes. University enrollment continues to consist largely of students from upper and middle class families. The charge is frequently made that the government is not doing enough to open up the civil service recruitment process. A more socially mixed body of civil servants, according to some observers, would make German public administration more citizen oriented and less state oriented than it is at the present. <sup>3/</sup> Increasing criticism is also being voiced over the sex bias in the make-up of the German civil service. Although the proportion of women in civil service is growing at all levels, a majority of them still hold positions in the "employee" category where they constitute over 50 percent of personnel. <sup>4/</sup> Another aspect of recruitment which is coming under increased criticism in

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<sup>1/</sup> Jacob, op.cit., p. 203.

<sup>2/</sup> Smith, op.cit., p. 232.

<sup>3/</sup> Ellwein, Verwaltungspolitik, op.cit., p. 18.

<sup>4/</sup> Ellwein, Berufsbeamtentum..., op.cit., p. 117.

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Germany is the phenomenon that a substantial portion of German officials are some of officials.<sup>1/</sup> The only government regulation limiting civil service employment, beyond the laws governing educational qualifications, is a 1972 order barring extremists who do not support the free democratic system in the Federal Republic. The ruling has been the subject of sharp controversy since its introduction. Between 1973 and June 1975, 328 people were excluded from public service on the basis of this so-called "Berufsverbot."<sup>2/</sup> Most cases involved members of the German Communist Party.

A unique aspect of the German civil service is its total reliance on the educational system to provide the training for civil service jobs. As a result, there are very few government training programs for personnel, except for narrow vocational or technical training for certain specific jobs.<sup>3/</sup>

A factor facilitating this heavy reliance on schools and universities to prepare public administrators is the control the government exercises over the entire educational system.

#### CIVIL SERVICE PAY SCALES

Common pay scales are divided into 16 levels which provide for regular ingrade pay increases and a second group of top officials divided into 11 grades who receive fixed salaries without ingrade increases. The salaries of the first group range from \$301 to \$1,810 per month (13 pay periods per year). For the second group salaries range from \$1,600 to a top salary of \$3,751 per month. All civil servants receive supplements depending on their

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<sup>1/</sup> Herz, op. cit., p. 101.

<sup>2/</sup> West Germans embarrassed by civil service ban on extremists. The Times (London) June 4, 1976, p. 5.

<sup>3/</sup> Johnson, op. cit., p. 148.

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marital status and how many children they have. The size of the supplement varies with the grade of the official. Top officials receive roughly 20 percent more than junior officials. Officials serving abroad are given special overseas allowances depending on the conditions in the country to which they are assigned.

A middle-level official (Class A 14, in grade step 7) with two children would receive a base salary of \$1,060 per month plus a supplement of \$310. An Under Secretary in a major ministry with two children would receive \$3,751 plus a supplement of \$349 per month. This comes to about \$53,000 per annum at the current rate of exchange.

Officials (Beampte) enjoy additional advantages. For example, they do not have to contribute to their social security pensions as persons in the private sector and other civil servants (Angestellte.) are required to do. They get partial coverage (50 to 70 percent) of their medical expenses gratis up to fixed ceilings depending on the particular ailment involved. They are eligible for accommodations in government-financed apartments and housing developments. They can borrow money from government credit institutions at favorable rates. Top officials required to do a lot of entertaining may receive special allowances to cover these expenses. Taking such factors into account the financial rewards of a top German official should be compared to those of a private citizen in the same financial position earning a considerably higher salary. But since factors vary from case to case it is impossible to make exact comparisons.

#### CAREER DEVELOPMENT

As a career service, the German bureaucracy has traditionally offered security and a predictable future. Higher posts were generally filled from the lower ranks. The Nazi provided somewhat of an exception since

many supporters of Hitler's party were brought into the higher echelons of the civil service from the outside.<sup>1/</sup>

Today, as before, mobility between the different categories of the civil service is virtually non-existent. There is some opportunity to advance from the basic to the middle service, as a result of similar educational requirements. However, promotion from the middle to the executive service or from the executive to the higher service occurs only in the most extraordinary cases. The opportunity for advancement is greatest within the higher service. There is also increasing movement between the higher service and political positions, as well as between the higher service and private business.<sup>2/</sup> The German civil service has traditionally been depicted as one in which length of tenure is the sole determinant of rank. Many studies of the modern German civil service still describe career patterns in these terms. However, recent surveys indicate that, while the average senior German official has spent about two decades in government service, there is a wide range of ages and lengths of tenure represented at the top of the civil service structure. This may be due in part to the missing generation, resulting from German war casualties. Retiring senior officials are replaced, not by men of age 60 as in the past, but by individuals aged 55 or even 50.<sup>3/</sup> However, the results of the studies also indicate less rigidity in promotion policies and a greater inclination to reward excellence through promotions than in the past. Some observers

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<sup>1/</sup> Jacob, op. cit., p. 201.

<sup>2/</sup> Johnson, op. cit., p. 158.

<sup>3/</sup> Dogan, op. cit., p. 98.

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charge that differences in career patterns are based on more negative factors, such as contacts, political and religious affiliation, and other <sup>1/</sup>extraneous considerations.

#### BENEFITS, RIGHTS AND PRIVILEGES

The so-called "well established rights" of the civil service consist of permanent tenure, salary, leave, pension of up to 75 percent of salary, protection against arbitrary decisions, and the right to sue within the regular court system in case of financial claims against the government. Only officials are guaranteed the full range of rights; employees and workers share some. Balancing these benefits is the obligation of loyalty. Post-war regulations place limitations on the loyalty requirement to the extent that unlawful acts are forbidden, even under orders from superiors.

While civil servants do not have a right to strike, they are allowed to unionize. The officials in public administration are represented by a separate association, the "Deutsche Beamtenbund" (D.B.B.). The association wields significant power in defending the interests of its members. It comes under frequent criticism for blocking civil service reforms which might erode some of the privileges of the officials. It has been depicted by some observers as the main obstacle to rationalization and modernization of the civil service structure. The D.B.B. is independent of the main trade union organization in Germany.

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1/ Herz, op.cit., p. 101.



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Employees are organized by the "Deutsche Angestellten Gewerkschaft" (D.A.G.). This union also wields considerable power and is independent of the German union federation. Workers can join various unions, affiliated <sup>1/</sup> with the German union federation.

#### GRIEVANCES

German officials can bring grievances to administrative and special courts. There are extensive regulations concerning grievance procedures. Officials can only be dismissed for cause on the basis of a verdict by a special court of peers. Furthermore, there are grievance committees within individual departments and sections. These committees can review appointments and promotions. They also take part in formulating personnel regulations. Grievance procedures exist for employees and workers, as well. <sup>2/</sup>

#### POLITICIZATION, ATTITUDES, AND RESPONSIVENESS

The German civil service has been viewed, traditionally, as a neutral service. German public servants long prided themselves with being "above politics." In theory, the German civil service remains a neutral bureaucracy. The civil service law of 1965 still stresses the nonpartisanship of public servants. Administrators are free to engage in political activity but are to be discreet. Under law, appointments cannot be made according to political considerations. At the same time, the law recognizes that the political leadership is entitled to the services at the top of civil servants who are in general agreement with existing policies.

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<sup>1/</sup> Johnson, op.cit., p. 143-148, 157. Also see Herz, op.cit., p. 100-102 and Leissner, Walter. Grundlagen des Beamtentums. BadGodesberg, Godesberg Taschenbuch Verlag, 1971. pp.12-13.

<sup>2/</sup> Herz, op.cit., p. 100-102.

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Therefore the highest civil servants can be transferred or retired without cause. This applies to positions at division head level and above. Only 200 positions fell under this category in 1970.<sup>1/</sup>

In practice, the German civil service has become highly politicized. The loose relationship between ministers and parliament is credited with having brought about a tight bond between the political executive and the civil service, resulting in what critics have called a "politicized bureaucracy" and "bureaucratized policy".<sup>2/</sup> There is considerable movement between the career civil service and elective office. Many leading post-war politicians in Germany have civil service backgrounds at the local, state, and federal level.

During a span of two decades the degree of politicization in the bureaucracy was not apparent because one party, the Christian Democrats, governed continuously. However, with the transfer of government to the Social Democrats in 1969, there was a change in approximately 20 percent of division head positions. Although the changes were not necessarily based on party affiliation, political motivations appeared to be a major factor.<sup>3/</sup>

Political influence in the German civil service is the subject of heated controversy. Opponents charge that the system has led to patronage and direct political influence at various levels of the service. The civil servant is also accused of having the best of both worlds. He can rise

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<sup>1/</sup> Johnson, op.cit., pp.153-154.

<sup>2/</sup> Herz, op.cit., p. 102.

<sup>3/</sup> Johnson, op.cit., p. 155.

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rapidly through the ranks as a result of political patronage. When there is a change in leadership, his rank is secure, though he may be transferred <sup>1/</sup> to a less influential position.

There are, however, defenders of the politicized system. They argue that many of Germany's past problems stem from the fact that the civil service was above politics and served the state rather than the people. They argue that a politicized bureaucracy has strengthened democratic government in Germany by making civil servants responsive to the will of the people. Most importantly, they argue that politicization has changed the fundamental attitudes of the civil service. An extensive survey recently taken among top-level German civil servants found that the attitudes of this group diverge considerably from the stereotype image of a conservative bureaucracy resisting change. German administrators were found to be more responsive to the needs of politics in a democracy and more egalitarian than most classical bureaucrats. These findings were said to apply not only among Social Democratic sympathizers but also among the younger generation of Christian Democrats. In general, the views of the German civil service were found to correspond most closely to those of the British bureaucracy. At the same time, the survey showed a great diversity of attitudes among <sup>2/</sup> German civil servants, with traditional attitudes still well represented.

#### REFORM

Civil service reforms have been under consideration since the 1960s. However, reforms have not, for the most part, advanced beyond the discussion stage. The association of civil servants has been a major barrier to change.

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<sup>1/</sup> See Ibid., p. 158, and Ellwein, Verwaltungs Politik, op.cit., p.20.

<sup>2/</sup> Dogan, op.cit., pp.113-116.

The fact that approximately 40 percent of parliament members are from the civil service ranks has been viewed as another impediment to reform.<sup>1/</sup>

Areas in which the need for reform has been recognized include the organization of the 1500 sections and offices in the Federal government. Criticism has centered on the lack of communication or coordination between offices. Civil servants are seen by some as following the rule of "maximum output within a department and minimum coordination between departments."<sup>2/</sup>

The most concerted discussion of reform has focused on the differentiation between officials, employees, and workers. There is within Germany a growing awareness of the inequity of the system whereby people often doing essentially the same work for the government are subject to different benefits and rights. Reform in this area would require changes in the civil service law which are recognized as being difficult to achieve without support from the bureaucracy.<sup>3/</sup>

#### CONCLUSION

The German civil service has undergone considerable expansion in the post-war period, without major formal change in the structure of the service or the laws governing it. In general, the service is viewed as responding adequately to the changing needs of modern West Germany and performing efficiently. At the same time, there is a growing body of opinion that changes are needed in the patterns of recruitment, training, career development, and the standardization of job benefits. Under growing

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<sup>1/</sup> Mutch, David. Bonn's Privileged Civil Servants. Christian Science Monitor, September 25, 1975.

<sup>2/</sup> International Journal of Politics, op.cit., p. 54.

<sup>3/</sup> Leissner, op.cit., pp.9-11.

outside pressure, some reforms in these areas are likely. Despite criticism from some quarters, political influence in the civil service is expected to continue. Some observers maintain that the civil service is entering a period of transition, fueled by the generational change in the composition of the service.

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THE ITALIAN CIVIL SERVICE

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The Italian Civil ServiceIntroduction

The concept of public administration in Italy is far broader than what is generally understood by the term in the United States. Not only does it refer to the "traditional" ministries, which make up the executive branch of government, but it also includes a vast network of separate administrations, autonomous agencies, state monopolies, public and semi-public corporations, all held together by varying and complex legal relationships and all staffed by civil servants. There exists no one set of regulations governing personnel employed in the Italian administrative system as a whole; and while rules and regulations have been established to govern the status of employees working in the "traditional" bureaucracy,<sup>1/</sup> there exists no commission - comparable to the U.S. Civil Service Commission - to supervise and enforce these regulations.

This paper will briefly describe and categorize components of the Italian public administration and will then concentrate on the organization of what can be called the "traditional" bureaucracy - that which comprises the "traditional" ministries of the executive branch of government. Afterwards we will detail regulations regarding employee recruitment, promotions and careers in these departments, drawing on examples of regulations prevailing in

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<sup>1/</sup> Most of these are embodied in the Consolidation Act governing the status of civil employees of the Government, issued by decree no. 3, of January 10, 1957, by the President of the Republic, and subsequent amendments.

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in other administrations only for purposes of comparison or contrast.

Description of the Italian Public Administration

Broadly speaking, the Italian public administrative system can be divided into three categories: the traditional departments of the executive branch headed directly by ministers; separate agencies, enjoying varying degrees of autonomy from the ministry under whose jurisdiction they fall; and "ente autonomi di gestione", (literally autonomous management agency), — or "special" administrative bodies-- of which the best known are IRI (Istituto per la Ricostruzione Industriale) and ENI, (Ente Nazionale Idrocarburi), and whose ties with the Ministry of State Holdings, created in 1956 to supervise them, are very loose indeed.

The organization of a "traditional" ministry is the subject of the following section. The separate, or autonomous, agencies, which include the postal service, the telephone service, the highways and railways, state monopolies such as those over salt and bananas, are entirely state financed and are subject to public administrative law. However, they enjoy a greater degree of autonomy than ministerial departments themselves in that their budgets are separate from that of the ministry to which they are attached and their administration is under a separate chairman and board of directors. The minister responsible for the oversight of these agencies merely establishes policy guidelines to be followed.

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The "enti autonomi di gestione" - or "special" agencies - are mostly state holding companies and corporations whose activities focus on economic development. Today, there is scarcely a sector of the Italian economy in which the government does not operate, directly or indirectly. "There are some 250 state holding firms in total, employing around 510,000 people in Italy (and a further 22,000 abroad.)"<sup>1/</sup>

There are six major state holding groups in Italy, the two most important being IRI and ENI. The organization of these holding companies can roughly be described as a three-tiered structure. At the base are the individual firms which continue to be joint stock companies subject to private company law; they are grouped under and responsible to various public corporations and stock-holding companies responsible to IRI and ENI, which in turn are responsible to the Ministry of State Holdings. The main activity of ENI and IRI is to raise much of the long-term capital needs of both public and private industry, and in this they are relatively free and independent. The Minister of State Holdings has a number of statutory powers over IRI and ENI, including the right to approve IRI's and ENI's general investment programs and their means of obtaining finance. The government also appoints chairmen and managers of the companies and is represented on IRI's and ENI's

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<sup>1/</sup> Allen, Kevin and Andrew Stevenson. An Introduction to the Italian Economy. New York, Harper and Row, Inc., 1975. p. 217.



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Boards of Directors. However, "in practice the relationship between IRI and ENI and the Ministry has never extended beyond consultation: the Minister lays down the general policy directives which coordinate the programmes of both corporations, and the latter are responsible for their execution by coordinating financially and technically the various holding or operating companies which retain executive responsibility for running their own concerns."<sup>1/</sup>

#### Structure of a Ministry

There are currently nineteen ministries in Italy, each headed by a minister who is appointed by the President of the Republic on the advice of the Prime Minister. The Minister is flanked by a "chef de cabinet" with his small staff, similar to a French Minister's personal cabinet. The "chef de cabinet" is personally appointed by the Minister, and can be either a career civil servant of middle or upper rank or an outsider. As the minister's appointee, the "chef de cabinet" is expected to be loyal to the minister and is responsible for overseeing the implementation of the minister's policies.

Each ministry is divided into various directorates -- or departments -- each corresponding to specific functions of the ministry and headed by directors-general, or inspectors-general for minor departments. The directorates in turn are divided into divisions, each under a division head, and the divisions are divided into sections, under the supervision of a section head.

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<sup>1/</sup> Allum, P.A. Italy - Republic without government? New York, W.W. Norton and Co., 1973. p. 151.

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Directors-general are also political appointees, nominated by the President of the Republic on the advice of the cabinet either from the ranks of the civil service or from the outside. Contrary to the "chef de cabinet" however, directors-general do not necessarily enjoy the minister's confidence. "...the politician in charge (the minister) cannot rely primarily on his under-secretaries (directors-general), for they may be, and frequently are, political rivals who owe their positions not to him but to a party faction that insisted on their appointment."<sup>1/</sup>

There is no one civil servant, except in the Foreign Affairs Ministry and the Ministry of Defense, in charge of the ministry, comparable to the British Permanent Under-Secretary. Supervision of and coordination within the ministry lie in the hands of a Council of Administration -- Board of Directors -- composed of all the directors-general, the "chef de cabinet" and the Minister himself. Critics claim that the "lack of any effective coordinating agency in most ministries results in overlapping of functions and jurisdictional uncertainties."<sup>2/</sup> Rivalries and incompatibilities are likely to arise among the directors-general, the directors-general and the "chef de cabinet", leaving the Minister himself ultimately as the chief coordinating agent.

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<sup>1/</sup> Zariski, Raphael. Italy. The politics of uneven development. Hinsdale, Illinois, The Dryden Press Inc., 1972. p. 252.

<sup>2/</sup> Allum, P.A. op. cit., p. 145.

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Other criticisms of the organizational structure of an Italian ministry point to excessive compartmentalization within the pyramid and excessive centralization of decision-making authority in the hands of the director-general. Every decision must be counter-signed, first by the section-heads or division-heads, then by the inspectors-general or directors-general, and often by the ministers themselves. "Paradoxically, one of the consequences of the great centralization of authority in the administration is that effective power is somewhat dispersed. As a result of overwork, those at the top are unable to review all the decisions coming from below for signature. Hence they often sign what appear to be uncontroversial decisions without being fully aware of the content or implication. Similarly, those below are often careless because they assume that all decisions will be reviewed at the top: the upshot is confusion and fragmentation."<sup>1/</sup>

Legislation enacted in 1972 has attempted to change this situation, by making each civil servant personally responsible for the signature of matters within his competence.

#### Organization of Civil Service Personnel

The main text governing the status of civil service personnel in the "traditional" administration is the Consolidation Act governing the status of civil employees of the Government, issued by decree no. 3, of January 10, 1957, by the President of the Republic,

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<sup>1/</sup> P.A. Allum, op. cit., p. 145.

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and subsequent amendments. <sup>1/</sup>

The organization of the Italian civil service is unoriginal in that it resembles that found in many other continental European countries. It forms a pyramid of four classes or careers, each class defined according to training and duties, and a scale of grades and titles within each class.

Starting from the top the four classes within the Italian civil service are the following:

The administrative class, (carriere direttive);

The executive class, (carriere di concetto);

The clerical class, (carriere esecutive);

The messengerial class, (carriere del personale ausiliario).

The administrative class is responsible for supervising the work of the ministry. This involves drafting position papers on matters of policy, briefing and advising the minister on matters which require his attention and decision. The executive class is responsible for the day-to-day running of a department, for supervising the clerical class. It is also involved in decision-making on matters that do not involve policy and in assisting the administrative class in its tasks. The clerical class includes typists, clerks, secretaries and mechanical staff. The messengerial

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<sup>1/</sup> Dr. Vittorfranco S. Pisano, of the European Law Division, has generously given of his time and expertise in translating portions of this law for the author.

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class includes ushers, porters, chauffeurs, messengers and other odd-job men.

1,500,000 is often quoted as the number of Italian civil servants. This figure includes members of the military, the judiciary, the teaching corps and the numerous state agencies, public and semi-public corporations. A 1971 figure for members of the executive branch of government totals 235,766. The breakdown reads as follows:

Years	1967	1968	1969	1970	1971 <sup>1/</sup>
	201,187	206,458	217,816	227,545	235,766

A breakdown by class gives the following figures for 1971:<sup>2/</sup>

Administrative class:	33,838
Executive class:	48,820
Clerical class:	92,954
Messengerial class:	<u>60,154</u>
	235,766

In addition to the permanent members of the civil service, the number of temporary appointments over a five-year period is given separately.

Temporary positions:

1967	1968	1969	1970	1971 <sup>3/</sup>
48,283	46,661	43,409	43,045	37,292

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<sup>1/</sup> Terranova, Salvatore. Gestion previsionnelle des effectifs en Italie. In Annuaire International de la fonction publique 1973-1974. p. 329.

<sup>2/</sup> Terranova, Salvatore. ibid. p. 329.

<sup>3/</sup> Terranova, Salvatore. ibid. p. 330.



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The figures for temporaries show a decrease over this five-year period. One reason for this is their gradual absorption into the ranks of the permanent employees, which in turn accounts in part for the rise in the number of the permanents shown in the previous chart.

#### Recruitment of Civil Service Personnel

Article 97 of the Italian constitution states that "Appointments in the public administration are secured by competitive entry, unless otherwise laid down by law."<sup>1/</sup> Entrance by competitive examination, codified in the 1957 Consolidation Act, is designed to ensure impartiality and eliminate past practices of clientelism and patronage, and attract the widest possible number of qualified candidates. All Italian citizens of either sex and eighteen years of age, of "good conduct" and "physical ability" to carry out their duties, are eligible to apply for the entrance exams.

As stated previously, the competitive examinations -- written and oral -- for each class within the administrative system are based on educational achievement. Applicants for exams for the administrative class must hold university degrees, applicants for the executive class must have a secondary school degree, applicants for the clerical class must have lower secondary degrees, and applicants for the messengerial class

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<sup>1/</sup> Peaslee, Amos. Constitutions of nations. The Hague, Netherlands, Martinus Nijhoff, 1968. 3rd ed., vol. III, p. 515.

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must have primary school degrees.

There is no one service or agency to administer entrance exams. In Italy, each ministry posts its own openings, sets its own dates for entrance exams, drafts its own exams, establishes its own criteria and supervises the whole process. The process is often a lengthy one and results in many inconsistencies among various sets of exams.

"Those who sign up for the available openings usually have to wait at least a year, and sometimes as long as two or three years, for the examination process to be completed and the positions to be filled.<sup>1/</sup>

The exams themselves tend to emphasize legal training, and studies on the social background of applicants who are willing to wait up to three years for an appointment show that many of them are southerners, more concerned with job security than with career advancement.

Exceptions to the general rule of entrance by competitive examination fall into three categories. The first category concerns the automatic appointment, without examination, to the clerical and messengerial classes, of certain members of society defined as disfavored, handicapped, or otherwise worthy of the state's attention. These include disabled war veterans, widows and orphans of war veterans, deaf-mutes, blind etc... According to the law, 15% of the openings in the clerical class and 40% of the openings in the messengerial class are to be reserved for these special categories.

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<sup>1/</sup> Zariski, Raphael, op. cit., p. 254.

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The second exception to the rule of appointment by competitive examination applies to the nomination of directors-general and other top posts such as prefects, which, as stated earlier, are political appointments.

The third exception to the rule concerns temporary appointments. There are four categories of temporaries, corresponding to the four career systems in the civil service. Temporary appointments are governed by specific contracts with the appointee. Absorption as a permanent is achieved upon review of the temporary's dossier and does not involve undertaking the entrance examination process.

The number of temporaries in the Italian civil service was exceptionally large at the end of World War II, when many people who were called upon during the war to replace those who were serving in the armed forces were not dismissed upon the return of the latter. Given the delicate political situation at the time, it was deemed best not to dismiss them. Laws were passed however to forbid the future hiring of temporaries, since it was felt that the system opened the door to abuses of patronage and favoritism. It became necessary, however, to consider exceptions to the rule. Many vacancies in the higher classes remain unfilled for lack of qualified personnel, particularly for technical, scientific and managerial positions. But, a special decree is required to open slots for temporaries.

Italian civil service recruitment policies have been the target of numerous criticisms. While the principle of competitive entrance

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examinations itself, designed to correct past abuses of patronage, may be a good one, the content of the examinations and the way in which they are administered have failed to attract personnel of high caliber. Commentators claim that too much emphasis has been placed on absorbing southern unemployment and not enough on recruiting personnel needed to run a modern state. Critics point to special agencies and state corporations which have been able to attract men with dynamism and technical competence. These agencies and corporations establish their own hiring criteria, which are more flexible, and suggest that the ministries might change the content of their examinations to meet requirements other than legal training and expand their criteria to include factors other than diplomas. Even though the examination system is supposed to be the most impartial method of recruiting personnel, the suspicion nevertheless prevails, difficult to prove of course, that political recommendations and clientele connections still play a part in hiring.

Laws initiated in 1970 have attempted to respond to some of these criticisms by simplifying recruitment procedures, reducing the delays involved in the examination process, establishing common exams for several ministries and altering their content to allow for applicants with technical and scientific skills. Ministries have been most reluctant however to give up their prerogatives and jurisdictions.

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Promotions, Transfers and Training

The Italian Civil Service has a rating system within each of the four classes similar to the US Civil Service GS rating, with grade and in-step promotions. It is also possible to be promoted from one class to another within the service through competitive examinations. Personnel supervision and management are the responsibility of individual ministries.

There is an initial probationary period of six months upon entry into the civil service. By law, should an unfavorable report be made after the six-month period, the probationary period can be extended another six months. But, as has been pointed out, "no one fails to survive the probationary period"<sup>1/</sup>.

In the messengerial and clerical classes, there is an open number of slots, meaning that promotions are not limited by the number of positions in the higher grades within those classes. Advancement is thus practically automatic, based on seniority rather than performance. Within the executive and administrative classes, the number of slots with corresponding titles is set, and no one can be promoted to a higher position if there is no available opening. Appointments to available slots are made partially on the basis of "suitability" or "merit", after review of one's record, and partially on the basis of competitive exams, after fulfilling a

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<sup>1/</sup> Allum, P.A. op. cit., p. 156.



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required number of years at a certain grade level. Promotion to the position of division director is open to section directors on the basis of competitive exams. One fifth of the available slots are open to section directors after one year in that rank after a special competitive exam and four fifths of the available openings are open to section directors after three years in that position after successful completion of a regular competitive exam. Promotion to the post of inspector-general is made after three years of service as division-director upon evaluation of one's record. Directors-general, of course, are political appointees. For those undertaking competitive examinations, all things being equal, preference is given to children of wounded war veterans, handicapped civilians, mothers, widows, children and single sisters of war dead, and to fathers of large families.

Despite the institution of "special" competitive exams designed to facilitate earlier promotions for the better qualified, advancement to positions of responsibility, with its seniority requirements and fixed number of slots, is considered quite slow. The situation prevailing in the "traditional" bureaucracy is often contrasted with that of the "special" administration, where upward mobility is more prevalent and largely based on merit, whatever the criteria for judging merit might be.

Transfer from one ministry to another is infrequent - given discrepancies and inconsistencies in classifications and ratings among ministries - and movement into and out of government is almost

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unknown. "... transfers from the civil service into the special administration are rare, as rare as the interchange between the civil service and politics. A top civil service position does not serve as a passport into a political career. Finally 'pan-touflage' - transfer from the civil service into private industry - has been rare so far."<sup>1/</sup> It should be pointed out, however, that many Italian civil servants hold two jobs. Office hours in Italian ministries are from 8 A.M. to 2 P.M. and government salaries are considered quite low compared to those prevailing in the private sector. Lower-rank civil servants consider an additional afternoon or evening job as a way to make ends meet and top civil servants consider appointments to lucrative posts as board members of special agencies as part of their emoluments. This widespread practice is scarcely designed to enhance efficiency and productivity.

Critics have labelled the promotion system within the Italian civil service - with its virtually automatic methods of selection and advancement - as too rigid to provide any incentive for good job performance."<sup>2/</sup> Reforms undertaken in 1970 have attempted to elaborate

1/ Passigli, Stefano. In Mattei Dogan, ed. The mandarins of Western Europe. The political role of top civil servants. New York, London, John Wiley & Sons, 1975. p. 237.

2/ Pastori, Giorgio. L'administration du personnel et la bureaucratie en Italie. (Personnel management and the bureaucracy in Italy). In International Review of Administrative Sciences, vol. XXXVII, no. 1-2, 1971. pp. 52-58.

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more imaginative and flexible methods of job evaluation, to introduce better opportunities for upward mobility and to devise means whereby personnel could be used to better advantage, but to date, these reforms have met with resistance from individual ministries who are anxious to retain what they deem as their own prerogatives.

In keeping with the concern to attract highly-motivated and qualified personnel and to improve the caliber of civil servants, attention has been given to their training. A Public Administration School (Scuola Superiore della Pubblica Amministrazione) was established in 1957 to provide aspiring civil servants with managerial and economic skills, but the general consensus has not been that the school, contrary to others such as IFAP, a managerial training school run by the state enterprise IRI, has not been successful in fulfilling its mission. The school's program has been judged as poorly adapted to the needs of the students and of the civil service, with no permanent staff and no comprehensive curriculum. A decree dated April 21, no. 472, was promulgated to revamp the school along the lines of the French National School of Administration (ENA). Admission to the school will be on the basis of a competitive exam, followed by an interview with a jury panel, and will emphasize general ability and promise as well as academic qualifications. A full-time staff will be in charge of conducting a twelve-month course, after which the student will spend time gaining practical experience in a ministry. A final exam will be based on theoretical knowledge and practical training.

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Rights and Obligations

Italian civil servants enjoy many rights, guaranteed by the constitution, workers' legislation, and regulations governing the Italian Civil Service. Obligations listed in the constitution include loyalty to the nation, proper conduct and impartiality in the performance of one's duties.

Among rights enjoyed by Italian civil servants is that of job security. Dismissals must be grounded on breaches of conduct specified by law. A tariff of penalties corresponding to listed offenses has been outlined in regulations governing the Italian civil service.<sup>1/</sup> Penalties range from deductions of 10 to 20 per cent of one's monthly salary up to a maximum of six months for systematic failure to deal with business, non-observance of service duties or unseemly conduct in dealing with superiors to dismissal for breaches of loyalty, illicit use of public monies or solicitation or acceptance of compensation for matters pertaining to the official's duties.

In fact, dismissals are rare, and would probably have to involve a criminal offense.

The right to take one's grievances and appeal personnel decisions or evaluations before the ministry's Board of Directors (Council of Administration) is guaranteed in Article 54 of the Civil Service Regulations.

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<sup>1/</sup> General Regulations of Italian Civil Service, Articles 80, 81, 84. Cited in Louis Fougere. Civil Service systems. Brussels, International Institute of Administrative Sciences, 1967. (354 pp.) pp. 323-324.

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The right for most civil servants to join a political party is guaranteed by the constitution. "Limitations to the right of registering as members of political parties may be laid down by law for members of the Judiciary, members of the fighting services on active duty, police officials and agents, and diplomatic and consular representatives abroad."<sup>1/</sup>

In the absence of a specific law forbidding a specific category of workers to unionize, the right to unionize is granted public employees as it is other workers under Article 37 of the workers statute. Public employees have the right to conduct union activities in their work premises, collect dues on work premises, be given meeting facilities etc... Leaders are to be given time off to attend meetings and conventions outside of work premises and to participate in negotiations.

The right to strike is guaranteed to workers under article 40 of the constitution. Insofar as public employees are concerned, a distinction is made between economic strikes and political strikes. Strikes which are politically-motivated are definitely ruled out, whereas economically-motivated strikes are considered legitimate for certain categories of public employees. Economic strikes are thought to be legitimate because the Council of State, the highest administrative court, has refrained from ruling on their legitimacy, and has limited itself to stating that no economic compensation will be given for time lost on the job during these strikes. Economic strikes are considered illegitimate for those categories of public employees - such as public health employees - who disrupt services which are safeguarded else-

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<sup>1/</sup> Peaslee, Amos. Constitutions of Nations. 3rd ed. The Hague, Netherlands, Martinus Nijhoff, 1968. Vol. III p. 515.



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where by the Constitution. Wildcat strikes of any kind are forbidden.

#### Management of the Civil Service

Day-to-day management of civil service personnel has been left to individual departments and agencies. As stated at the outset of this paper, there is no one body or agency endowed with jurisdictional authority over the civil service as a whole. There are several bodies, however, who have partial jurisdiction over aspects of civil service management, which are described below.<sup>1/</sup>

The most important body endowed with jurisdictional authority over the civil service as a whole is the General Accounting Office of the State, (Ragioneria Generale dello Stato), a branch of the Ministry of the Treasury, whose broad functions range from drafting the government's annual budget to auditing the government's expenditures. The General Accounting Office's authority to approve proposed government expenditures make it responsible for oversight of personnel budgets in each ministry, including appointments, promotions, dismissals and pensions. According to Salvatore Terranova, General Accounting Office inspectors posted in each ministry do not partake in day-to-day personnel matters but limit themselves to intervening only when annual budget requests submitted to them involve legal or economic changes in personnel requirements. They never take an initiative in proposing reforms.

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<sup>1/</sup> The bulk of this section is derived from Slavatore Terranova, op. cit.

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A body created to propose personnel organization and management reforms is the Office of Public Administration Reform, (Ufficio della Riforma dell'Amministrazione dello Stato). This office is directly under the supervision of the Prime Minister and is run by a minister without portfolio. Its task is to study and elaborate proposals for administrative reform, articulate long-term policies and draft legislative proposals. However, this office has little authority and very few means at its disposal to undertake the mission assigned to it. It limits itself to research activities, carried on by study groups composed of civil servants from various ministries. According to Salvatore Terranova the office's studies have very little impact: they are relegated to official publications and encounter general indifference.

The Higher Council of Public Administration (Consiglio Superiore della Pubblica Amministrazione) was created in 1957, as a consultative body, charged with reviewing, deliberating and making recommendations on matters affecting both the organization of the government and the status of civil service employees. Presided over by the Prime Minister who can delegate his chair to the Minister for Administrative Reform, the Council is divided into two sections, one for personnel matters, and one for government reorganization. The section in charge of personnel matters is composed of 42 members, half of them representatives of labor unions. It was hoped that this body would prove to be an adequate forum where management and personnel could discuss grievances and matters of mutual concern. Unfortunately, this body,

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which was created in 1957, was not instituted until 1973, and, according to Salvatore Terranova, unions have acquired the habit of taking their demands directly to the political authorities, and are not likely to take them now to a consultative and deliberative body with no power. Had it been instituted when legislation was enacted for it, the council could have provided a platform for a useful dialogue between the government and its employees.

#### The Civil Service and Politics

An evaluation of the relationship between civil servants and politicians and the impact which the Italian civil service might have on Italian politics can be approached from several angles: from the point of view of civil service attitudes, in terms of recruitment, and in input and output terms on the decision-making process itself.

In terms of attitudes, the Italian civil service has often been described as alienated from politics and politicians, when it is not downright hostile.<sup>1/</sup> Coupled with indifference, lack of achievement orientation and doubts about its own efficiency, these attitudes are hardly conducive to assuming initiative toward influencing politicians or to filling the vacuum when the political process breaks down. The attitude of civil servants in the state holding companies and state enterprises, in contrast to that of traditional

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<sup>1/</sup> Passigli, Stefano. In Mattei Dogan, ed. op. cit. p. 231.

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civil servants, is frequently characterized as confident and aggressive, which would make them more prone to seek to influence politicians and the decision-making process.

In terms of recruitment, contrary to the situation prevailing in France, the Italian civil service does not provide a training ground for political service. There is virtually no cross-over from a civil service career to a political career. Even the special administration fails to provide an effective means of recruiting a political elite. If anything, the transfer of personnel is from politics to lucrative jobs in special agencies. A reversal of this trend may be forthcoming, however. Recent election campaigns have seen prominent businessmen in the public and private sector run for office.

In terms of input into the decision-making process, it is worth remembering that most legislation is drafted in the ministries and that directors-general of government departments do seek and have the ear of the ministers under whom they are working. They are not the minister's sole advisors, however, and their influence must be weighed against that of the minister's chef de cabinet, who enjoys the minister's confidence whereas the director-general may not, and against that of the numerous interest groups who also seek the minister's ear. Interest groups and lobbies often have better research units and technical information to supply them with data needed for decision-making than do the ministries' staffs, and

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are thus better equipped to influence policy decisions. In fact, devoid of independent means of information-gathering and research, policy-making civil servants are often forced to rely on data supplied them by special groups, when they do not make themselves merely the arbiters of various interests or even simply the spokesmen for these groups.

On the other hand, directors and board members of the "special" administration often see themselves as spokesmen for their companies' interests rather than public servants working for the public good. Equipped with technically competent staffs, members can and do approach ministers and other politicians with matters of concern to them. Another powerful means of influencing decision-making used by state companies is that of financial contributions to political parties and election campaigns.

Finally, in terms of output, the "traditional" bureaucracy is considered too entangled in its own procedures to display any initiative, either in establishing goals of its own or in filling lacunae created by defects in the political system. The "special" administration, on the other hand, less fettered by rules and regulations, has taken advantage of its greater independence to carry out its own goals in the economic sphere which, given the size of the public sector, has had a major impact on the economy of the country as a whole.



CONCLUSION

The Italian civil service has been criticized for its inability to meet and respond to the needs of a modern, industrialized nation-state. Certainly it lacks the esteem and prestige of either the British or French civil service. (Whether it is being faulted for failures which are properly political failures is another question.) Observers attribute its inefficiency largely to rigid and uniform rules governing the civil service, conceived in a piecemeal fashion and implemented haphazardly, arbitrarily and sometimes even contradictorily. Historical factors are given to explain the present situation. Preoccupation with absorbing unemployment, primarily from the South, was a major element which eventually influenced the size of the civil service and the emphasis on tenure and security. Automatic and inflexible methods of selection and promotion were meant to eradicate political patronage and clientele favoritism, common features of an earlier period. Thus, current legislation, enacted to cure past ills and practices, may have succeeded in creating a by-and-large blameless bureaucracy, ~~but~~ it has failed to attract a staff capable of running the machinery of a modern state.

Some critics, such as G. Pastori and Salvatore Terranova, contend that current attempts to improve the performance of the "traditional" civil service will not succeed unless they are made in a wider context of institutional reform. In other words, while the caliber and performance of the civil service may be adversely

affected by unimaginative recruitment, training and promotion policies, they are also adversely affected by the institutional structures in which the civil service is called upon to operate. A competent civil service will hardly be able to function efficiently and effectively if the machinery of government is characterized by fragmentation, compartmentalization, overlapping and contradictory jurisdictions. The above-mentioned authors suggest that civil service personnel and institutional reforms be undertaken together and in light of one another if both are to succeed, but such a global approach would require a political will and vision lacking at the present time.

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THE CANADIAN CIVIL SERVICE

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## THE CANADIAN CIVIL SERVICE

I. Introduction

There are a number of parallels between Canadian and United States civil service practices. Outstanding examples are Canada's classification system and its system of competitive examinations testing qualifications for a specific job rather than general ability.

In some other respects, however, the Canadian Government has followed different patterns. Perhaps the most important of these is the British-based concept of a permanent civil service, including the top levels directly under cabinet ministers, which remains in office after electoral changes, to provide administrative continuity and counseling for inexperienced ministers. Apparently, the Canadian civil service has developed to a high degree a tradition of impartiality, including an ability to work harmoniously with ministers of differing political persuasions.

In still other respects special indigenous circumstances have been handled by Canadian methods. A case in point is the way in which the Canadian Government has dealt with the problem of how to provide adequate representation in the civil service for French-speaking Canadians who represent roughly one-fourth of the population.<sup>1/</sup>

The following sections will deal in some detail with those and other characteristics of the Canadian civil service.

II. Size and Organization

As of April 1975 the Canadian federal public service numbered roughly 250,000. This represented 12.5 percent of the total of total number of

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<sup>1/</sup> Commissioner of Official Languages. Fifth Annual Report, 1975, Ottawa, Information Canada, 1976. p. 8.



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persons employed by federal, state, and municipal agencies in Canada. Government employees of all categories constituted about 10 percent of the total population of the country.

Thus the public service — the Canadian equivalent of the U.S. Civil Service — forms only a relatively small part of the total number of government workers. The great majority "belong to a "second outside service ... which applies varying standards in personnel administration."<sup>1/</sup> Members of the second category are "employed by federal Crown Corporations, provincial governments and Crown Corporations, municipalities, school boards and hospital boards."<sup>2/</sup> This paper will be limited to a consideration of the public service.

In order to give an indication of the structure of the Canadian federal government an organization chart is included in Appendix A.

### III. Lines of Authority

From the early days of the Canadian Federation the lines of authority over the public administration have been ambiguously drawn. The resulting confusion explains many facets of civil service development.

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<sup>1/</sup> Dawson, R. McGregor. The Government of Canada, Toronto, University of Toronto, fifth edition, 1970, p. 249, quoting Personnel Administration in the Public Service, p. 136.

<sup>2/</sup> Special Joint Committee on Employer-Employee Relations in the Public Service. Report to Parliament: Employer-Employee Relations in the Public Service of Canada. First Series, Thirtieth Parliament, 1974-75-76. p. 48-11.

There were three contenders for control: the heads of government departments, the Treasury Board, and the Civil Service Commission established by statute in 1908.

A. Government Departments

In the beginning each cabinet minister was free to staff and manage his own department. As leading party politicians it is not surprising that the ministers often manned their departments with their political supporters, irrespective of their qualifications.

B. The Treasury Board

The Treasury Board, a statutory financial management committee of the Cabinet, was early designated as the focal point in the executive branch for the direction of personnel administration. The Board's powers stemmed from its control over departmental expenditures. This in turn was derived from the requirement of the British North America Act of 1867 -- the constituent act of the Canadian Federation -- that proposals involving the expenditure of public funds must be recommended by the <sup>1/</sup>Crown.

The Treasury Board's jurisdiction was formalized by Order in Council PC 3333, dated October 5, 1896. The order "conferred sweeping powers on the board over all matters relating to appointment, employment or continuance of employment, promotion, increase or reduction of salary, granting or extension of leaves of absence, payment of travelling expenses,

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<sup>1/</sup> Article 54 of the British North America Act 1867, quoted by Dawson, op. cit., p. 514.

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and removal expenses, of permanent and temporary employees."<sup>1/</sup>

C. The Civil Service Commission

The Civil Service Commission was established by statute in 1908. Its creation was an expression of growing concern about the effect of an unbridled patronage system upon the operation of the Canadian government. As early as 1882 parliament had provided that candidates who were to be appointed to a large number of positions in Ottawa would first be required to pass non-competitive qualifying examinations set by a board created for that purpose.<sup>2/</sup> In 1908 a new Civil Service Act founded the Civil Service Commission to administer competitive examination for entrance to a large number of positions in the headquarters service in Ottawa (the so-called "inside" service).<sup>3/</sup>

The glaring inefficiencies of the Canadian public administration during the first World War greatly strengthened the force of the movement for the elimination of the patronage system. A strong demand developed both in parliament and in the country for a career public service based exclusively on merit. Consequently parliament endowed the Civil Service Commission with sweeping powers over the personnel management of the public administration. The extent of these powers is shown

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<sup>1/</sup> Hodgetts, John E. The Canadian Public Service: A Physiology of Government, 1867-1970. Toronto, University of Toronto Press, 1973 p. 52.

<sup>2/</sup> Dawson, op. cit., p. 251.

<sup>3/</sup> Hodgetts, John E., William McCloskey, Reginald Whitaker, and V. Seymour Wilson. The Biography of an Institution: The Civil Service Commission of Canada, 1908-1967. Montreal, McGill-Queen's University Press, 1972, p. 19.

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by a summary of the contents of the Civil Service Act of 1918.

Part I of the Act was devoted to describing the nature of the CSC's hierarchy (number of Commissioners, their status and salaries), the duties allotted to it, and the penalties which the CSC should prescribe for such offences as fraud and impersonations in competitive examinations. Part II dealt with more general concerns: rational organization of the civil service, probations, leaves of absence, dismissals and resignations, hours of attendance and political partisanship. Part III described the manner in which examinations were to be conducted and how their results were to be enforced. Part IV was concerned primarily with in-house problems: classification, appointments, promotions, transfers, and compensation.

Clearly the most important function given the CSC was the administration of civil service appointments by competitive examinations ... The act prescribed open competition for all positions, and the compiling of a fixed list of eligibles from which appointments would be made to the civil service in order of standing. <sup>1/</sup>

In short the 1918 Civil Service Act vested in the Civil Service Commission "nearly all the significant decisions concerning employment." <sup>2/</sup>

#### D. Conflicts of Jurisdiction

The assignment of many of the same powers to both the Treasury Board and the Civil Service Commission impeded the development of a coherent personnel policy. The Commission as the agent of the parliament directly responsible to it for the elimination of patronage from the public administration played the essentially negative role of keeping watch on the executive branch. Its procedures often complicated personnel management; it did little to encourage creative career development programs.

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<sup>1/</sup> Ibid., p. 50-51.

<sup>2/</sup> Hodgetts. The Canadian Public Service, op. cit., p. 245.

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Thus it is not surprising that over the course of time power has tended to shift from the Commission back to the Treasury Board. Particularly during the Great Depression, when the Canadian Government was determined to reduce public expenditures, the Board expanded its control over personnel policy and its power continued to grow through the 1930's. "By the summer of 1940 it had become patently clear to the civil service community that the Treasury Board was in the driver's seat in determining virtually all policy in federal personnel administration."<sup>1/</sup>

In the mid-fifties, however, the situation still remained ambivalent. It has been described as follows by a royal commission on government organization:

The Civil Service Commission controls some matters, the Treasury Board others; both are involved in such issues as classification and related pay-scales in the sense that the Commission formulates and recommends, and the Board accepts or rejects. The two agencies, together with a given department, constitute a complex triangle of authority and responsibility in countless detailed problems and requests sometimes travel lengthy circuitous routes before decisions are made and actions taken. <sup>2/</sup>

#### E. The 1967 Definition of Jurisdiction

This confused situation was not straightened out until the major government reorganization of 1967. New lines of authority were drawn between the Treasury Board and the Civil Service Commission by the Financial Administration Act, the Public Service Relations Act, and the Public Service Employment Act, all of March 13, 1967. These statutes

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<sup>1/</sup> Ibid., p. 11.

<sup>2/</sup> Royal Commission on Government Organization, 1960-62, Report 1, p. 356. Quoted by Hodgetts, the Biography of an Institution, op. cit., 227.



tilted the powers of management sharply in the direction of the Treasury Board but left the Commission, now renamed the Public Service Commission, in exclusive control of appointments to and from within the public service.

The Canada Year book 1974 described the functions of the Treasury Board under the 1967 legislation as follows:

Under provisions of the amended Financial Administration Act and the Public Service Staff Relations Act ... Treasury Board is responsible for the development of policy guidelines, regulations, standards and programs in the area of classification and pay, conditions of employment, collective bargaining and staff relations, official languages, manpower training, development and utilization, pensions, insurance and other employee benefits and allowances, and other personnel management matters affecting the Public Service ....

Treasury Board also develops policy guidelines, programs and regulations on salary administration, benefits, and allowances for the Public Service. These functions involve the development and maintenance of classification programs and associated salary structures. Through delegation, responsibility for classification and the administration of salaries is being transferred progressively to departments, subject to a monitoring process. Benefit programs and allowance policies approved by the Board are designed to give maximum responsibility for administration to departments. 1/

The current role of the Public Service Commission is set forth in the Canada Year Book as follows:

The Public Service Employment Act ... continues the status of the Public Service Commission as an independent agency responsible to Parliament. The Commission has the exclusive right and authority to make appointments to and from within the Public Service. The Commission is also empowered to operate staff development and training programs, to assist Deputy Heads in carrying out training and development and in 1972 was charged with investigations into cases of alleged discrimination on grounds of sex, race, national origin, colour, or religion in the application and operation of the Public Service Employment Act. 2/

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1/ Canada Year Book 1974: An Annual Review of Economic, Social and Political Developments in Canada. Ottawa. Information Canada, 1974, p. 82.

2/ Ibid., p. 83.

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Despite these changes there are still ways in which the roles of the three original contenders for administrative control overlap. But in general there is a greater tendency towards cooperation and a greater understanding of the need of the minister in charge of a department to have a larger role in the management of the personnel under his jurisdiction. Thus the Treasury Board has been given discretion to delegate to the deputy head of a department or the chief executive of any portion of the public service any of its general powers of personnel management. In the same way the Public Service Employment Act empowered the Public Service Commission "to authorize a deputy head 'to exercise and perform ... any of the powers, functions and duties of the Commission'" (other than those relating to appeals and investigations).<sup>1/</sup> Such delegations have taken place. They have been in line with the emphasis of students of Canadian public administration on the advantages of handling career planning best at the departmental level.

#### IV. Examinations and Classification

As noted above, the establishment of a Civil Service Commission charged with the administration of a system of competitive examination for entry into the civil service marked the beginning of the modern Canadian civil service.

##### A. Examinations

In carrying out this assignment, the Canadian Civil Service Commission did not adopt the British approach to the development of the public admini-

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<sup>1/</sup> Hodgetts, The Canadian Public Service, op. cit., p. 284.

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stration. The British Government sought to build up an elite service of men destined to staff the higher positions in the administration. Candidates for Class A of the Civil Service -- as this elite corps was called -- took difficult examinations designed to measure intelligence, imagination, analytical power, insight, incisiveness, and other general characteristics. This method of selection was based on the belief that the gifted generalist made the best and most versatile public servant who could be developed through training, experience and assignment to handle a wide range of increasingly difficult and responsible jobs. The approach was elitist and the examinations heavily favored highly educated upper class candidates.

In Canada, as in the United States, the influences of the frontier and of a predominantly immigrant population have led to a more democratic view of how to recruit public servants. As one Canadian scholar has put it: "Egalitarian assumptions ... were as congenial to Canadians as Americans and the procedures for recruiting Canadian public servants still reflect to some extent the persistence and prevalence of these assumptions."<sup>1/</sup> For example, the extensive reliance on nationwide competitions reflects the principle of open access to the bureaucracy as do the provisions for substituting practical experience in place of specific academic degrees.

#### B. Classification

The approach of the Canadian Civil Service Commission was to prepare examinations which would test the candidate's capacity to meet the require-

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<sup>1/</sup> Hodgetts, The Canadian Public Service, op. cit., p. 52.

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ments of a specific job. The prerequisite for such a system was the classification of all of the positions in the public administration.

Recognizing its own inadequacy for performing such a task, the Civil Service Commission called in as consultants Arthur Young and Company, a wellknown American firm "who were in the vanguard of the classification movement."<sup>1/</sup> The classification of an entire national administration was a pioneering step. Although the concept of classification had already been developed in the United States, it had only been applied at the state and municipal level. When the United States Government decided to classify its own national civil service the Canadian system provided the only existing model.

The classification system presented to the Canadian parliament in 1919 consisted of a series of job descriptions, with specifications of duties and qualifications, exact lines of promotion, and usually a salary schedule. As all positions were considered as calling for special talents, each was to be filled through an examination designed to test these special qualifications.

The classification system came to be increasingly complex. By the 1940's civil service positions were grouped "into no less than 3,700 different classifications. Of these 2,200 were applicable to permanent positions and about 1,500 to special wartime and other temporary posi-

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<sup>1/</sup> Hodgetts et al. The Biography of an Institution, op. cit., p. 67.

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tions."<sup>1/</sup>

After World War II the classification was simplified. Under current regulations the public service "is divided into six broad occupational categories" which are further divided into sixty-seven groups of occupationally similar jobs. For each major occupation or group of occupations there is a program of recruitment, selection, and placement.<sup>2/</sup>

#### V. Career Development

In recent years the Treasury Board and the Public Service Commission have cooperated with employing departments to develop comprehensive manpower plans, including plans for training and promotion. Such plans have been introduced for several occupational groups.

It is government policy to make "appointments to job vacancies from within the Service except where the Commission believes it is in the best interests to do otherwise." Appointments within the Service are made either through a formal competition or from an employee inventory. 'Data System', the Commission's computerized manpower inventory, is the primary employee inventory for the executive, scientific and professional, technical and administrative and foreign service categories. Under the Public Service Employment Act, public servants who are candidates in a competition open to all or part of the service may appeal the selections

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<sup>1/</sup> Hodgetts, et al. Canadian Public Administration, op. cit., p. 253.

<sup>2/</sup> Canada Year Book 1974, op. cit., p. 83 and Hodgetts, Canadian Public Administration, op. cit., p. 335.



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made as a result of the competition to the Public Service Commission. When a promotion is made without competition, those who would have been eligible to apply if a competition had been held may appeal. Public servants may also appeal the decision of a Deputy Head to recommend release or demotion because of incompetence or incapacity."<sup>1/</sup>

Despite these announced policies there are indications of a heavy dependence upon lateral entry to staff middle and upper positions. Several students of Canadian government have noted that officials in the middle and upper levels of administration have generally not reached their position by entry at the bottom and promotion within the service. One Canadian scholar writing in 1971 reported that "among public servants at the deputy minister level (the top grade of civil servants), fully 80 percent followed a private-public career pattern, working first outside the public service. Among these men only about 15 percent have been coopted directly into the highest level of the public service from outside, the rest having entered at some middle point in their career and then moved up inside the service."<sup>2/</sup> He also commented that to an increasing extent the top levels of the civil service have changed "from a homogeneous group of 'mandarins' to a much more heterogeneous group of managers and technocrats. In this sense, the representativeness of the public service has been increased, and

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<sup>1/</sup> Ibid. p. 83-84.

<sup>2/</sup> Van Loon, Richard J., and Michael S. Whittington. The Canadian Political System: Environment, Structure & Process, Toronto McGraw Hill Company of Canada, 1971, p. 358. At the middle ranks Canadian civil service salaries are fully competitive with industry. This is not true of the top management positions but prestige, power and satisfaction in the job often overrule the lure of top level jobs in private business in the minds of public officials.

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the capabilities of the bureaucracy for making decisions for the broad range of Canadians may have improved as well."<sup>1/</sup>

According to the same study the social background of officials throughout the public service is also heterogeneous. "The proportion of middle- and upper-class decision makers with working class or farming backgrounds is close to 50 percent."<sup>2/</sup> A university education is becoming an extremely important factor in gaining access to the higher-decision levels of the federal service. But apparently what university one attended does not matter. Thus, given a university education, the public service appears to be an important "path of upward mobility" in Canada.<sup>3/</sup>

This description of the Canadian public service suggests some striking differences from a number of European models -- for example, the French model. In the latter case the cream of the service is selected young, is trained in a government school and continues in the service for a life-long career. Esprit de corps is very strong and promotion depends in large part upon associations made within the service and upon educational and intellectual performance. Stars are identified early and promoted rapidly. As the stars often are transferred from one ministry to another the esprit de corps and community of outlook throughout the upper ranks of the civil service as a whole are strong. In such matters the Canadian civil service resembles that of the United States much more than those of Europe.

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<sup>1/</sup> Ibid., p. 359.

<sup>2/</sup> Ibid., p. 357.

<sup>3/</sup> Ibid., p. 358. See also Rich, Henry. "Research Note from a Study of Higher Civil Servants in Ontario," Canadian Public Administration, Summer 1974, vol. 17, no. 2; p. 328-334.

## VI. The Neutrality of the Civil Service

Although in some respects the Canadian civil service has a strong resemblance to that of the United States, in others it follows British traditions. One example is the Canadian concept of a totally, non-political administration which remains in office when political power passes from one party to another. In theory all members of the Canadian bureaucracy, including deputy ministers remain in their posts after a change of government to guarantee continuity in administration and to advise the new ministers. The provisions which prevent civil servants from taking part in politics or running for political office unless they receive a dispensation (which would be denied to a high ranking official) are intended as much to preserve neutrality, which is essential to the operation of such a system, as to eliminate patronage.

The degree to which this theory worked in practice was tested in 1957 when the Conservatives replaced the Liberals who had been in power for 22 years.

It is evident that the movement out of the public service at the higher levels was at no greater rate during the Conservative period than it was during the Liberal period. Moreover it would seem, because about one third of those who left went to employment elsewhere rather than retirement, that there is an incomplete development of the bureaucratic career, but that this seems to have had nothing to do with the political party in office. The structure of the public service, at least as measured by the type of appointment to the top rank, or as judged by the trickle out from the top, was no different under Conservatives than it was under Liberals. 1/

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1/ Porter, John. The Vertical Mosaic, Toronto, University of Toronto Press, 1965. Quoted in Kernaghan, op. cit., p. 81.

## VII. Bilingual Problems

The Anglo-French origins of Canada have created special problems for the civil service. The British North America Act stipulated that both English and French should be used as official languages.<sup>1/</sup> It was also accepted, at least in theory, that French Canadians should be awarded a reasonable share of the civil service jobs.

A feature of the pre-1918 patronage system was that French-speaking ministers found jobs for their French-speaking supporters. An unexpected consequence of the introduction of the merit system in 1918 was a sharp reduction in the number of French-Canadians entering the administration. This was because the new competitive examinations, written and administered chiefly by English-speaking officials and geared to an English education, put French-Canadian candidates at a serious disadvantage. Thus "the proportion of French Canadians in really responsible positions speedily declined from some 25 percent in 1918 to 8.1 percent in 1946."<sup>2/</sup>

It was not until the 1960's that this situation was given proper consideration, owing in part to the agitation of the French Canadian separatists. During the sixties changes were made. "Efforts were redoubled to attract to the public service a greater number of French speaking candidates." Changes were made in the civil service examination system to equalize the competitive position of French and English speak-

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<sup>1/</sup> Article 133. See Dawson, op. cit., p. 534.

<sup>2/</sup> Van Loon and Whittington, op. cit. p. 356.

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ing candidates. It was decided "to consider second official language skills as an element in relation to university graduates applying for administrative and foreign service positions." A comprehensive policy on bilingualism in the public service assured a French Canadian official on an opportunity to work in his own language "either upon his appointment or at the most within a few years after it." Furthermore, four-month language training courses were given on a full-time basis to new university graduate recruits who lacked proficiency either in French or in English.<sup>1/</sup> This was to meet the obligation imposed by the Official Language Act of 1967 that, subject to certain conditions, federal service would be offered to the public in both French and English. However, experience since 1967 has led to questions about the value of expensive training courses.<sup>2/</sup>

In recent years the number of French Canadians entering the public service has increased. The percentage of French Canadians in the 650 or so most senior officials rose in five years (1962-1967) from 12 to 15 percent.<sup>3/</sup> "In 1971 openings for unilingual English-speakers were ten times more numerous than those four unilingual French-speakers. In 1975, the ratio fell to six to one. Thus progress has been made

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<sup>1/</sup> Cloutier, Sylvain. "Senior Public Officials in a Bicultural Society, Canadian Public Administration, vol. 11 (Winter, 1968) p. 395-406. Quoted by Kernaghan, W.D.K. Bureaucracy in Canadian Government: Selected Readings. Toronto, Methuen, 1969. p. 30.

<sup>2/</sup> Commissioner of Official Languages. Fifth Report, op. cit., p. 6.

<sup>3/</sup> Cloutier, op. cit., p. 40.



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but in the view of French Canadians there is still a long way to go because the French-speaking population represents one fourth of the total population.<sup>1/</sup>

#### VIII. The Rights of Civil Servants

Up to 1967 Canadian federal public servants had no regularized method of obtaining a redress of grievances. A strike against the government was regarded as treason. In order to guarantee that the civil service would be an impartial body capable of loyal service to all ministers and parties in power alike, Canadian officials were excluded from any political associations or the use of normal political channels to secure the redress of grievances. An 1844 Act provided that "no person holding an office of emolument at the nomination of the Crown ... shall be eligible as member of the Legislature," with the exception of members of the executive council.<sup>1/</sup> A provision of the Civil Service Act of 1918 ressembling the American Hatch Act stated that "no ... deputy head, officer, etc. shall engage in partisan work in connection with any election or contribute, receive or in any way deal with any moneys for any party funds."<sup>2/</sup>

##### A. Political Rights

The Public Service Employment Act of 1967 improved the situation for public service employees by spelling out clearly the meaning of

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<sup>1/</sup> Fifth Report, op. cit., p. XIV.

<sup>2/</sup> Hodgetts, The Canadian Public Service, op. cit., p. 34.

<sup>3/</sup> Ibid., p. 316.

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political partisanship. It was defined as "engaging in work for, on behalf of, or against a candidate for a federal, provincial, or territorial council election, or engaging in work for, on behalf of, or against a political party, and standing for election. Political partisanship does not consist of attending a political meeting or contributing funds to a candidate." The 1967 law also authorized the Public Service Commission to grant a civil servant the right to stand for elective office if "the usefulness to the Public Service of the employee in the position he now occupies would not be impaired by reason of his having been a candidate." If elected he immediately left the service. Furthermore the act spelled out a procedure for protecting public employees from charges of political partisanship (which was grounds for dismissal from office). "All charges alleging political partisanship are to be referred to a board established by the Public Service Commission, and if the Board confirms the charge the Governor in Council (if a deputy head) or the Commission (for all other employees) dismisses the offender."<sup>1/</sup>

#### B. Grievance Procedures

Such provisions gave to civil servants some of the privileges of ordinary citizens to vote, seek and hold political office and other normal political rights. But officials also needed and sought internal procedures by which to seek redress of grievances arising from their civil service employment. After the creation of the Civil Service

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<sup>1/</sup> Ibid., p. 318-319.

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Commission in 1918 "civil servants and their associations looked to the commission as their 'protector' against any possible abuse of the managerial prerogatives of departmental heads. "In practice, the commission became an appeal court to uphold or reject the decisions of senior departmental managers with respect to such matters as dismissal, suspension, lay-off, probation, transfers, promotions, reclassification and the like."<sup>1/</sup> These procedures were revised in 1967. The new legislation provided civil servants with "an elaborate, ... apparatus for appealing most significant managerial decisions affecting their terms and conditions of employment."<sup>2/</sup> But what was still lacking was the right of civil servants to bargain with their employers through union machinery.

#### C. Union Rights

Before civil servants could approach management on the behalf of aggrieved members, it was necessary for them to form associations on a large enough scale to be taken seriously by management. Because of the geographic dispersal of civil servants and the division of the service into a multitude of classes, this was a slow process. The final unification of numerous associations, which often had begun as recreational or social clubs, did not come about until 1966 when the Public Service Alliance of Canada was formed. As of April 1975 a total

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<sup>1/</sup> Ibid., p. 320.

<sup>2/</sup> Ibid., p. 322.

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of some 105,000 members, or roughly two-thirds of the public servants. There were 13 other certified bargaining agents.<sup>1/</sup>

In the early day of civil service employee organization, representatives of associations which later merged into the Public Service Alliance carried their members' grievances and appeals (particularly with respect to promotions) or of larger issues concerning the protection of the merit principle to the Civil Service Commission. The Commission acted as their intermediary with the executive branch of the government. But throughout the thirties and forties, as we have seen, the commission was losing power to the Treasury Board and the senior departmental officials."<sup>2/</sup>

In 1944 a new mechanism for public employees emerged through which claims could be negotiated collectively with the triumvirate -- commission, Treasury Board and senior departmental officials. This was the National Joint Council modelled closely on the National Whitley Council which has been set up for the British civil service. The Council has been described in the following terms.

Designed 'to secure a greater measure of cooperation between the State in its capacity as employer and the general body of civil servants', the council was 'to provide machinery for dealing with grievances; and generally to bring together the experience, and different points of view of representatives of the administrative, technical, and manipulative branches of the Civil Service.' Management, represented by the official side was given nine members on the council of the rank of deputy or assistant deputy minister, named by the Governor in Council. The employees were represented on the 'staff side' by ten (subsequently twelve) specified associations, each of

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<sup>1/</sup> Special Joint Committee Report, op. cit., p. 47-10.

<sup>2/</sup> Ibid., p. 326.

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which named its own member to the council....Reflecting the division of managerial responsibility, the council was directed to make its recommendations to the Governor General in Council, the Treasury Board and/or the Civil Service Commission.' No recommendation could go forward unless it had the endorsement of both sides and 'only statements issued under the authority of the National Joint Council shall be published.' The matters on which the council could deliberate and offer recommendations covered a wide range, extending from general principles governing conditions of employment (for example. 'recruitment, training, hours of work, promotion, discipline, tenure, regular and overtime remuneration, welfare and seniority') to employee suggestion plans, office procedure, other appeal machinery, encouragement of further education and training and so on. 1/

These procedures did not, however, meet the demands of public employees for collective bargaining rights along the lines enjoyed by unions operating in the private sector. It was not until 1967 that they achieved such rights in a form more restricted than those enjoyed by non-public unions. In that year the Public Service Staff Relations Act provided civil servants with a new charter of industrial rights. The Act offered the employees' bargaining agent with a choice between arbitration or conciliation together with a restricted right to strike.

"In the case of arbitration an award may deal 'with rates of pay, hours of work, leave entitlements, standards of discipline, and other terms and conditions of employment directly related thereto." But the Act specified limitations. "No arbitral award can require or have the effect of requiring the enactment or amendment of any legislation by parliament" nor "deal with the standards, procedures, or processes governing the appointment, appraisal, promotion, demotion, transfer,

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1/ Ibid., p. 330-331.



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lay-off or release of employees."<sup>1/</sup>

As of April 1975 public servants were represented by fourteen different bargaining agents in 104 bargaining units.<sup>2/</sup> This system is based on the new simplified classification system which had been introduced in 1967 (see above), partly to facilitate collective bargaining. (In the Canadian system pay scales are not uniform throughout the entire public service and bargaining for pay raises may occur affecting a single bargaining unit.)

If conciliation is chosen, similar restrictions apply. Furthermore, the right to strike if conciliation fails is also limited. Employees performing duties essential to the safety and security of the public, who must be clearly "designated," are denied the right to strike.

In parliamentary committee hearings in 1975 none of the spokesmen for civil service unions disagreed with this concept. In collective bargaining situations, however, there was frequent disagreement about who should be designated as essential and what should be considered an illegal strike. The report of a joint parliamentary committee on employer-employee relations in the public service stated in 1975 that since 1967 there had been 449 collective bargaining agreements, 11 lawful strikes and more than 50 illegal strikes.

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<sup>1/</sup> Ibid., p. 337-338.

<sup>2/</sup> Special Joint Committee Report, op. cit. p. 47-10

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The Committee did not recommend the removal or reduction of the right to strike for groups but favored the broadening of the criteria for designating civil servants as essential.<sup>1/</sup> These questions are still under study. And, particularly after the recent 42 day Canadian postal strike, feeling runs high in some quarters for greater restrictions on the rights of public servants to strike.<sup>2/</sup>

#### VI. Conclusion

This brief survey indicates the Canadian civil service has shown the ability to grow and change with the requirements of modern governmental responsibilities. The 1960's were a period of thorough going review and sweeping reorganization. The following period has been one of consolidation and modernization through the exercise of the authority provided by the earlier legislation, and this reforming process is still under way.

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<sup>1/</sup> Special Joint Committee Report, op. cit., p. 47-10.

<sup>2/</sup> The Globe and Mail, February 28, 1976, p. 6.

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Canada Year Book; 1974: An Annual Review of Economic, Social and Political Developments in Canada. Ottawa, Information Canada, 1974.

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## PART IV.—A BRIEF SURVEY OF MAJOR EXECUTIVE REORGANIZATION STUDIES AND PERSONNEL RECOMMENDATIONS, 1905-1976

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(By Gary L. Galemore, Analyst in American National Government, Government Division, November 22, 1976)

### INTRODUCTION\*

As the Federal Government has grown in size and complexity, administrators, political leaders, and academicians have been increasingly compelled to struggle with the efficiency of the organizational structure of government.

Such attention and concern has, on numerous occasions, manifested itself in reorganization studies. The focus of these assessments has been generally directed toward the exorcism of the administrative devils of duplication, inefficiency, expense, and lack of managerial control. The problems have become so acute that in the last 70 years every President since Theodore Roosevelt has created a commission, committee, panel, or task force to recommend changes to improve the administrative structure.

In changing the system, four devices have been applied: Executive order; statute; reorganization plan; internal departmental directive. Three of these procedures are still in existence, the reorganization plan authority (chapter 9, title 5, U.S. Code) having expired in 1973.

The results of the study commissions are mixed. A few panels had most of their proposals acted upon by legislative or administrative means, but many others served only as focal points or building blocks for later studies. In some cases, failure can be partly attributed to the jurisdictional conflict between the President and the Congress. Both of these branches of government felt they had sole responsibility for organizing the executive branch and neither one was willing to relinquish this prerogative to the other.

A turning point in this controversy came with the Economy Act of 1932 (47 Stat. 413) and amendments of 1933 (47 Stat. 1515). These authorities created the concept of discretionary Executive initiatives in reorganization with congressional review and consent.

The reorganization studies surveyed in this report were selected for their prominence and the availability of resource material to the researcher. Having been limited to public records and restrictions of time, all reorganization efforts are not included in this report.

In surveying these major commissions and committees, particular attention was directed to their authorizing authority, their method of

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\*Prepared for the Subcommittee on Manpower and Civil Service by Gary L. Galemore, Analyst in American National Government, Government Division, Library of Congress under the direction of the staff of the subcommittee.



operation and membership, their recommendations and personnel proposals, and major recommendations adopted. It is regrettable that in some cases little research material was available and as a result some historical material was lost to this report.

The reorganization plans from 1939 to 1973 are included in the appendix to title 5, United States Code. A substantial bibliography on executive reorganization by Dr. Suzanne Cavanagh, which includes books, articles, and public documents on this subject is available at the Library of Congress.

### KEEP COMMITTEE ON DEPARTMENT METHODS (1905-1909)

The Committee on Departmental Methods was created by President Theodore Roosevelt on March 12, 1903. President Roosevelt's belief in strong executive leadership in Government administration together with public concern over reports of Government waste, scandal, and corruption, were prime reasons for the creation of this panel.

The Keep Committee was to inquire into eight major areas of government organization and operation. These areas were outlined by the President in his letter creating the committee and included: (1) executive decision-making; (2) classification of positions, titles and salaries; (3) purchasing of equipment and supplies; (4) accounting and cost keeping methods; (5) interdepartmental coordination; (6) paper-work management; (7) governmental printing and publications; and (8) general business methods of the Federal Government.<sup>1</sup>

The only recorded expenditure of the committee was some \$2,000, out of a total authorization of \$5,000, spent for a voluntary Subcommittee on Documentary Historical Publications of the United States.<sup>2</sup> The reason for such a low expense, over a 4-year period, is that all the staff worked on their own time and without compensation.

The Keep Committee consisted of five members with Charles Hal- lam Keep appointed by President Roosevelt to be their chairman.

All five of the committee members were selected from high-level Government positions. However, none of these members were of Cabinet level. Chairman Keep graduated from Harvard Law School, was considered an expert in fiscal affairs, and at the time of his appointment, was Assistant Secretary of the Treasury. The four remaining commissioners were James R. Garfield, a son of President Garfield and then Commissioner of the Bureau of Corporations in the newly created Department of Commerce and Labor; Frank H. Hitchcock, Assistant Post Master General; and Lawrence O. Murray, who, at the time, served as the First Assistant Secretary in the Department of Commerce and Labor. The final commissioner was Gifford Pinchot who possessed background in a Government position he held in the Forest Service and as a Professor of Forestry at Yale University.<sup>3</sup>

The Keep Committee was organized into 12 subcommittees with the following areas of responsibility: Cost Keeping, Accounting; Concentration of Routine Processes; Recording and Handling of Corre-

<sup>1</sup> Pindrot, Gifford. *Breaking New Ground*. New York, Harcourt, Brace, 1947, p. 296.

<sup>2</sup> Kraines, Oscar. *The President Versus Congress: The Keep Committee, 1905-1909: First Comprehensive Presidential Inquiry into Administration*. *The Western Political Quarterly*, V, xxiii, no. 1, March 1970: 5-54.

<sup>3</sup> The National Cyclopaedia of American Biography. New York, James T. White & Co., 1917, v. xiv, 27, pp. 412-13 and 464.

spondence; Inspection; Operation of Statutory and Miscellaneous Rolls; Organization of Editorial Work and Official Gazette; Organization of Libraries; Personnel, Salaries, Promotions, Reductions, Dismissals, Hours of Labor, and Sick and Annual Leave; Supplies; and Telephone and Telegraph Systems.<sup>4</sup> In all, some 70 executive department personnel were used to staff the mentioned subcommittees. Each staff member was selected because of his or her expertise in a particular area. Almost all of the staff time devoted to the committee was performed after normal working hours and without compensation of any kind.

Although most of the committee's work was completed by 1907, the panel remained intact until the end of President Roosevelt's term in 1909. During its 4 years of existence the committee delivered 19 reports to the President but, because Congress withheld approval, none of the 19 reports were ever published as public documents. The few that were privately published were done so by, and at the expense, of the committee itself.

Major committee recommendations included provision for the complete reclassification of Federal service employees and adjustments in salaries. The committee suggested that Congress enact legislation prescribing a uniform classification system for the entire executive branch and urged, as well, that efficiency ratings be kept on employees in connection with "promotions, retention, and dismissal."<sup>5</sup> The institution of a retirement system was also proposed together with a standardizing of work hours and leave practices throughout all executive departments. Addressing itself to Government purchases, the panel concluded that all future Government procurement should be done through "the General Supply Committee" which would be responsible for issuing contracts and distributing supplies to Government departments.<sup>6</sup>

To prevent the reporting of conflicting statistical information from separate departments within the Government, the committee recommended creation of a central statistical agency<sup>7</sup> to compile statistics used by various government departments. In the committee's review of Government records management and printing, a proposal emerged advocating the use of typewriters and billing machines, the introduction of modern filing equipment and the incorporation of business recordkeeping systems.

The recommendations made by the Keep Committee received little attention from Congress. The Legislators had for a long time, opposed any efforts on the part of the Chief Executive to investigate the administration of the Government. This opposition grew out of the belief, on the part of Congress, that the proper accountability of administration was to the Legislature and not to the President. President Roosevelt was diametrically opposed to this position and favored control and responsibility for administrative matters in the President, who he felt could most properly and efficiently handle them.

<sup>4</sup> Kraines, *op. cit.*

<sup>5</sup> Schinagel, Mary S. *History of Efficiency Ratings in the Federal Government*. New York, Bookman Associates, 1966, pp. 28-29.

<sup>6</sup> Committee on Department Methods. *Purchase of Department Supplies*. Washington, U.S. Govt. Print. Off., 17 pp.

<sup>7</sup> Committee on Department Methods. *The Use of Committees in Department Works*. Washington, U.S. Govt. Print. Off., 7 pp.



As a result of these two positions taken on the part of Congress and the President, the Keep Committee's recommendations were in most ignored by the legislature and little in the way of enactment or adoption of any of the proposed changes in administrative practices were ever applied by legislative means. The Keep Committee did succeed in changing administrative practices through public awareness generated by the press and through internal directives within individual departments of Government. The Keep Committee set a precedent for future attempts to apply modern methods of administration to the workings of the Federal Government. Indeed, many of the Keep Committee recommendations were adopted by later commissions and future Presidents.

#### COMMISSION ON ECONOMY AND EFFICIENCY (1910-1913)

The Commission on Economy and Efficiency was established by Congress, on President Taft's suggestion, by Act of June 25, 1910 (36 Stat. 703). Determined to avoid some of the pitfalls experienced by the Committee on Department Methods, President Taft sought congressional approval and authorization for the Commission.<sup>8</sup> The purpose of the panel, as stated in the establishing authorization, was to "enable the President, by the employment of accountants and experts from official and private life, to more effectively inquire into the methods of transacting the public business of the government in the several executive departments and other government establishments, with the view of inaugurating new and/or changing old methods of transacting such public business so as to attain greater efficiency and economy therein, and to ascertain and recommend to Congress what changes in law may be necessary to carry into effect by executive action alone, and for each and every purpose necessary hereunder, including the employment of personal services at Washington, D.C. or elsewhere one hundred thousand dollars."<sup>9</sup>

The Commission received over \$260,000 in authorizations during its 3-year existence. Yearly appropriations were as follows: 1910, \$100,000; 1911, \$75,000; 1912, \$85,000. By June 30, 1913, the Commission was refused further funding by Congress and expired as a result.<sup>10</sup>

As appointed by the President, the Commission consisted of the following five members: Dr. Frederick A. Cleveland, chairman; Mr. William F. Willoughby, then Assistant Director of the Census; Judge Walter W. Warwick, Associate Justice of the Supreme Court of the Canal Zone, and formerly examiner of accounts of the Isthmian Canal Commission and auditor of the government of the Canal Zone; Frank J. Goodnow, professor of administrative law, Columbia University; and, Harvey S. Chase, a certified public accountant of Boston, Mass. Merritt O. Chance, then Auditor for the Post Office Department, was made secretary and later a member of the Commission.<sup>11</sup>

<sup>8</sup> Weber, Gustavus A. *Organized Efforts for the Improvement of Methods of Administration*. New York, D. Appleton and Company, 1919. p. 84.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*, p. 86.

The Commission was organized into five areas of study and investigation: business methods, accounting and reporting, personnel, organization, and the Federal budget.<sup>12</sup>

The Commission made a number of recommendations in its reports. The first of these recommendations and possibly the most important was the suggested adoption of a national budget system. President Taft endorsed the idea that the President should "submit estimates of expenditure needs" (for executive departments), "to enable the administration to transact public business with greater economy and efficiency."<sup>13</sup>

Congress took no immediate action on this particular recommendation since, as the Chairman of the House Committee on Appropriations put it, "Congress knew best the character and extent of the information it desired in responding to the demands of the Executive for appropriations . . . that it would not be wise for Congress to abdicate, even by implication, its prerogatives in this matter."<sup>14</sup> As a result of this conflict, the recommendation for a national budget system was limited in effect to raising the problem and laying a basis for further consideration of the subject. A national budget would not be realized until 1921 with the Budget and Accountant Act (42 Stat. 20). A second proposal by the Commission concerned reorganizing Government-provided services, by department, to eliminate duplication of organization, plant and work. To do this, the Commission had to conduct the first full, detailed, survey of how the Government was organized and to propose changes in that structure.<sup>15</sup>

From its study and in its subsequent report the Commission recommended, (1) the abolition of the Revenue Cutter Service of the Treasury Department and the Returns Office of the Department of the Interior, and (2) the consolidation of the Bureau of Lighthouses of the Department of Commerce and Labor and the Life Saving Service of the Treasury Department, as well as the consolidation of the six auditors' offices of the Treasury Department. The Commission also recommended the establishment of an independent health service, by the transfer to that service of the Public Health and Marine Hospital Service of the Treasury Department, the divisions having to do with the protection of public health in the Bureau of Chemistry of the Department of Agriculture the Division of Vital Statistics of the Bureau of the Census in the Department of Commerce and Labor, and other such services as had to do with purely public health work. Further recommendations in this area were prevented when Congress failed to authorize additional funding for the Commission which ultimately resulted in its abolition.<sup>16</sup> Congress took no action on the panels proposals.

In the area of Federal personnel policy, the Commission prepared studies regarding methods of appointment of officers and employees, methods of keeping efficiency records, and the general problem of the establishment of a proper system for the retirement of superannuated

<sup>12</sup> Ibid., p. 87.

<sup>13</sup> Ibid., pp. 87-91.

<sup>14</sup> Ibid., p. 89.

<sup>15</sup> Ibid., p. 91.

<sup>16</sup> Ibid., p. 93.



employees. These studies were published by Congress as public documents but no further action was taken toward policy modifications.

The Commission also suggested that accounting and reporting systems throughout Government, as a whole, be standardized and new practices of modern principles of public accounting be implemented. Few of these findings were transmitted to Congress and the proposals that were subsequently adopted were done so by the departments involved, independent of congressional action.<sup>17</sup>

#### THE PRESIDENT'S COMMITTEE ON ADMINISTRATIVE MANAGEMENT (BROWNLOW) (1936-1937)

The President's Committee on Administrative Management was established at the direction of President Roosevelt in March of 1936, at a time when the Federal Government had just experienced a period of tremendous growth in new emergency agencies. These agencies were the result of the efforts of the Roosevelt and Hoover administrations to combat the serious problems of the great depression. President Roosevelt urged, that because the Federal Government had grown at such a rapid rate and in such an unorganized fashion, that effective administration had become difficult. President Roosevelt explained the situation in his letter requesting authority for the Committee to the President of the Senate and the Speaker of the House of Representatives:

Many new agencies have been created during the emergency, some of which will, with the recovery, be dropped or greatly curtailed, while others in order to meet the newly realized needs of the Nation, will have to be fitted into the permanent organization of the executive branch. One object of such a study would be to determine the best way to fit the newly created agencies or such parts of them as may become more or less permanent into the regular organization. To do this adequately and to assure the proper administrative machinery for the sound management of the executive branch, it is, in my opinion, necessary also to study as carefully as may be the existing regular organization. Conversations on this line were carried on by me during November and December, and I then determined to appoint a committee which would assist me in making such a study, with the primary purpose of considering the problem of administrative management. It is my intention shortly to name such a committee, with instructions to make its report to me in time so that the recommendations which may be based on the report may be submitted to the Seventy-fifth Congress.<sup>18</sup>

Herbert Emmerich, in his book the "Federal Organization and Administrative Management" summarized the problem this way:

Administratively, the President lacked the facilities to handle his vast job. A host of government corporations and other autonomous agencies had been added to the array that had already frustrated President Roosevelt's predecessor. Although many of these agencies needed a measure of operating autonomy in their early stages, the result was a widely dispersed executive function. Many of their functions impinged on each other, and as they began to acquire some muscle the need for coordination became increasingly acute.<sup>19</sup>

Congress was also interested in the problems of executive organization. Early in 1936, Senator Harry F. Byrd of Virginia chaired a Select Senate Committee to study the overlapping and duplication within the executive branch and to look for a reduction in overall

<sup>17</sup> *Ibid.*

<sup>18</sup> Graves, W. Brooke. *Basic Information on the Reorganization of the Executive Branch, 1912-1948*. Washington, U.S. Govt. Print. Off., February 1949, p. 130.

<sup>19</sup> Emmerich, Herbert. *Federal Organization and Administrative Management*. Alabama, The University of Alabama Press, 1971, p. 47.



costs. A few months later the House created its own select committee under the Chairmanship of James Buchanan of Texas.<sup>20</sup>

Theoretically, these two committees were to work in conjunction with the President's Committee on Administrative Management. Indeed, the Senate committee included two important members of the President's Committee, Louis Brownlow, and Luther Gullick. However, friction soon developed between the President's committee and Senator Byrd's panel. As explained by Herbert Emmerich:

The President and Senator Byrd, with Mr. Brownlow, worked out a plan for a division of labor under which the President's Committee was to consider the problems of overall management and the Senate committee was to consider the problems of detailed departmental organization. At the outset, the demarcation between the work of the two groups seemed quite clear. The Senate committee engaged the Brookings Institution to undertake its survey. Since the advisory committee to the Senate Committee included two members of the President's Committee, it was assumed that the two projects would be continuously coordinated. The staff of Brookings Institution had been critical of the Administration's program and the President had been critical of their views. Before their studies progressed very far, it became clear that there would be radical differences in the conclusions of the two reports. Unfortunately, as it turned out, each group went its own way almost from the start.<sup>21</sup>

Despite the conflict between the Congress and the Executive as to the aims and direction of the studies, Congress did authorize funding.

The President's Committee, as well as the two congressional committee studies were funded from an Executive emergency account of \$100,000. This authorization was divided in the following manner: the President's Committee gave \$10,000 to the House committee and \$40,000 to the Senate committee. Of the remaining authorization the President's Committee spent \$45,000.<sup>22</sup>

The Committee was popularly known as the Brownlow Committee, named after its chairman, Louis Brownlow. At the time, Mr. Brownlow was director of the Public Administration Clearing House and chairman of the Committee on Public Administration of the Social Science Research Council. The other members appointed to the Committee by the President were Professor Charles E. Merriam of the University of Chicago and Luther Gulick who was an administrative expert at the State and municipal levels of government.<sup>23</sup>

The Committee was assisted by a staff of 26 people who had academically oriented backgrounds. The staff was instructed to spend as little time as possible conducting surveys and performing detailed research. "The President," it was reported, "had expressed the hope that the Committee would secure a staff that knew enough to skim the cream off the top of their own experience. He wanted a report on principles, not details, lest disputes over specific details jeopardize public support of the broad principles of reform."<sup>24</sup>

Mr. Gulick expressed the hope that the staff would become the "eyes and ears of the Committee," and would make its contribution by helping the Committee to hammer out a program in final conferences.<sup>25</sup>

<sup>20</sup> *Ibid.*, p. 48.

<sup>21</sup> *Ibid.*, p. 49.

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.* p. 51.

<sup>24</sup> *Ibid.* p. 50.

<sup>25</sup> *Ibid.*

The staff consisted of the following persons:

Joseph P. Harris, *Director of Research*

G. Lyle Belsley  
A. E. Buck  
Laverne Burchfield  
Robert H. Connery  
Robert E. Cushman  
Paul T. David  
William Y. Elliott  
Herbert Emmerich  
Merle Fainsod  
James W. Fesler  
Katherine Frederic  
Patterson H. French  
William J. Haggerty

James Hart  
Arthur N. Holcombe  
Arthur W. MacMahon  
Harvey C. Mansfield  
Charles McKinley  
John F. Miller  
John D. Millett  
Floyd W. Reeves  
Leo C. Rosten  
Spencer Thompson  
Mary C. Trackett  
Schuyler C. Wallace  
Edwin E. Witte

On January 12, 1937, the President, in a message transmitting the report of the Committee to Congress, set forth the major recommendations. The proposals are as follows:

1. Expand the White House staff so that the President may have a sufficient group of able assistants in his own office to keep him in closer and easier touch with the widespread affairs of administration and to make a speedier clearance of the knowledge needed for executive decision. (In an earlier section of the Report, the Committee had asserted that "they should be possessed of high competence, great physical vigor, and a passion for anonymity.")
2. Strengthen and develop the managerial agencies of the government, particularly those dealing with the budget, efficiency research, personnel, and planning, as management arms of the Chief Executive.
3. Extend the merit system upward, outward, and downward to cover all non-policy-determining posts; reorganize the civil service system as a part of management under a single responsible administrator, strengthening the Civil Service Commission as a citizen Civil Service Board to serve as a watchdog of the merit system; and increase the salaries of key posts throughout the service so that the government may attract and hold in a career service men and women of the highest ability and character.
4. Overhaul the 100 independent agencies, administrations, authorities, boards, and commissions and place them by executive order within one or the other of the following 12 major executive departments: State, Treasury, War, Justice, Post Office, Navy, Conservation, Agriculture, Commerce, Labor, Social Welfare, and Public Workers; and place upon the Executive continuing responsibility for the maintenance of effective organization.
5. Establish accountability of the Executive to Congress by providing a genuine independent post audit of all fiscal transactions by an auditor general, and restore to the Executive complete responsibility for accounts and current financial transactions.

As the Committee prepared its recommendations, it focused primarily upon problems of organization as they relate to efficiency, duplication of effort and purpose, and improving executive control. No specific attention was directed toward the saving of money and with the release of the report, opposition developed around this omission. Some saw the recommendation as an elaborate scheme by President Roosevelt to consolidate his control over the executive branch at the expense of the Congress.

Senator Byrd publicly criticized the Committee's proposals and stated they would not have his support.<sup>26</sup>

The Committee recommendations soon became mired in politics and President Roosevelt was tangled in his own proposals to reform the Federal judiciary.<sup>27</sup>

<sup>26</sup> Brownlow, Louis. *A passion for anonymity: the autobiography of Louis Brownlow*. second half. Chicago. University of Chicago Press, 1958. p. 321.

<sup>27</sup> Polenberg, Richard. *Reorganizing Roosevelt's Government*. Cambridge, Harvard University Press, 1966. pp. 20-21.



As a result, few actions were taken by the Congress or the President to implement the Committee recommendations during 1938. By 1939, however, Roosevelt, strengthened by his reelection and his determination to reform the executive branch, reintroduced the proposals in a less controversial bill. This proposal stood in sharp contrast to the measure defeated by the House the previous year. It was extremely mild, omitting nearly every controversial feature of its predecessor. It was drawn up by legislative leaders who paid little heed to the recommendations of the Brownlow Committee. It sparked no storm of controversy; public fear was absent and pressure groups were quiescent. And although the Republicans picked up 80 seats in the House and 7 in the Senate in November 1938, the Reorganization bill of 1939 passed with little difficulty.<sup>28</sup>

The new legislation (53 Stat. 651), had removed from it provisions regarding the civil service administration, accounting, and the reorganization of various bureaus. The new bill did allow the President to propose plans for reorganization, subject to veto by a majority of both houses of Congress. Out of this provision later came the establishment of the Executive Office of the President.

#### THE COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH (HOOVER I), 1947-1949

In 1947, the United States was presented with the problem of transforming its wartime economy to one better suited to peacetime. The problem, in part, stemmed from the tremendous growth in agencies and personnel generated by World War II. The extent of this growth can be seen when comparing the existing Federal Government under President Hoover with the national administration of 1947. The executive branch under Mr. Hoover spent around \$4 billion in tax dollars per year and employed some 600,000 persons. Under President Truman, in 1947, the annual budget for the executive branch had grown to nearly \$42 billion dollars a year and employed over 2 million Government workers in 1,816 different bureaus, agencies, and departments.<sup>29</sup>

The establishment of the Commission of Organization of the Executive Branch Government was the first all inclusive evaluation of the Federal Government. All previous attempts, including the Committee on Administrative Management, focused on particular functions or segments of organization but never the entire spectrum of Government. The totality of the Commission's study is reflected in the 2.5 million words of basic data, and the 1,632 pages of reports presented to Congress.<sup>30</sup>

By a unanimous vote of Congress, the Lodge-Brown Act of July 1947 was passed creating the Commission (61 Stat. 246). There was strong support in the Legislature for a thorough study of the executive branch, as the unanimous vote would indicate, due, in part, to political pressures. Herbert Emmerich describes the mood of Congress in the following passage:

The first postwar Congress was in a mood for deflation of the Executive establishment. There has been agitation since the war for return of the public payroll

<sup>28</sup> Ibid., p. 184.

<sup>29</sup> U.S. Commission on Organization of the Executive Branch of Government. *The Hoover Commission Report*. New York, McGraw-Hill Book Company, Inc. 1949, p. v.

<sup>30</sup> Ibid., p. vii.

and Executive activities to prewar proportions, but the Congress had lacked the data to make informed cut-backs and the will to eliminate any substantive program. The Eightieth Congress was the first Republican Congress in sixteen years, moreover, and was in a vindictive mood. It was eager to take stock of the accumulated New Deal, World War II, and postwar programs and their administration. In the spring of 1947, with widespread expectations of the election of a Republican President the following year, the time seemed ripe for a thoroughgoing examination of the Federal enterprise. It was expected that such an audit would reveal vast areas of waste and large opportunities for what Rowland Egger called "painless economy." It was expected to provide a convenient guide for a program of retrenchment that would result in enormous savings in the new Republican administration. Congressional prerogatives, always restricted in wartime, would be restored. The Lodge-Brown Act stated specifically that one of the objectives of the examination should be "to define and limit the executive branch."<sup>31</sup>

Congressional desire was also overwhelmingly apparent in the authorization of \$1,907,600 to fund the Commission.

The composition of the Commission consisted of twelve members with former President Herbert Hoover selected to head the group. Appointment of members was made both from public and private life, although most of the private sector members had experienced substantial Government service.

Half of the Commission had backgrounds in business and professional fields and the low proportion of academicians stood in marked contrast to the members selected to serve on the President's Committee on Administrative Management of 1937.<sup>32</sup>

The President, the President of the Senate, and the Speaker of the House of Representatives each appointed four members to the Commission on Organization of the Executive Branch,<sup>33</sup> which subsequently consisted of:

1. Herbert Hoover, Chairman.
2. Dean Acheson, lawyer, Vice Chairman.
3. George D. Aiken, U.S. Senator from Vermont.
4. Clarence J. Brown, Member of the House of Representatives from Ohio.
5. Arthur S. Flemming, Member, U.S. Civil Service Commission.
6. James V. Forrestal, Secretary of Defense.
7. Joseph P. Kennedy, financier, former Ambassador to Great Britain.
8. John L. McClellum, U.S. Senator from Arkansas.
9. Carter Manasco, Member of the House of Representatives from Alabama.
10. James K. Pollock, professor of political science, University of Michigan.
11. George H. Mead, Mead Paper Co., Dayton, Ohio.
12. James H. Rowe, Jr., lawyer, formerly assistant to President Roosevelt.

The Commission staff counted 74 persons, separated into 4 basic groups: 18 Commissioners' assistants; a 13-man central staff, including an executive director, a public relations director and an editorial director; a 4-member administrative staff; and a 39-member secretarial staff. In addition to this staff, the Commission employed over

<sup>31</sup> Emmerich, Herbert. *Federal Organization and Administrative Management*. Alabama. The University of Alabama Press, 1971. p. 83.

<sup>32</sup> *Ibid.*, p. 84.

<sup>33</sup> Public Law 162, 80th Cong.

300 outside experts, taken from universities, research institutions and business firms. These additional personnel were used to write the reports and complete research. They were divided into 24 teams or "task forces."<sup>34</sup>

## TASK FORCE CHAIRMEN AND PRINCIPAL RESEARCH GROUPS OF THE FIRST HOOVER COMMISSION

### *I. General Management of the Executive Branch*

The Office of the President and its Relation to the Departments and Agencies: Don K. Price, Stephen K. Bailey, H. Struve Hensel, John D. Millett, Federal Field Offices; Klein and Saks (Management Consultants), Dr. Julius Klein, project director.

### *II. Budgeting and Accounting*

John W. Hanes, Accounting Phase; T. Coleman Andrews, T. Jack Gary, Jr., and Irving Tenner, Budgetary Phase; Institute of Public Administration, New York, A. E. Buck, project director.

### *III. Statistical Services*

National Bureau of Economic Research, Frederick C. Mills, project director.

### *IV. Records Management*

National Records Management Council, E. J. Leahy, project director.

### *V. Federal Supply Activities*

Russell Forbes, project director. Staff assistants and an advisory committee drawn from industrial purchasing executives.

### *VI. Personnel Management*

John A. Stevenson, president, Penn Mutual Life Insurance Company, chairman of Task Force; Cresap, McCormick and Paget (Management Consultants), Richard Paget, project director.

### *VII. Foreign Affairs*

Harvey H. Bundy and James Grafton Rogers, committee. Henry L. Stimson, adviser. John F. Meck, Jr., staff director.

### *VIII. National Security Organization*

Ferdinand Eberstadt, investment banker, and former vice chairman, War Production Board, chairman of Task Force (with civilian and military advisory committees).

### *IX. Treasury Department*

A. E. Buck, Montgomery B. Angell, Daniel W. Bell, and William T. Sherwood.

### *X. The Post Office*

Robert Heller & Associates, Inc. Management Engineers, F. L. Elmendorf, project director.

### *XI. Department of Agriculture*

H. P. Rusk, Dean of Illinois College of Agriculture, chairman of Task Force.

### *XII. Department of Interior*

Natural Resources: Leslie Miller, former Governor of Wyoming, chairman of Task Force. Public Works: Robert Moses, chairman of the New York State Council of Parks, and of the Triborough Bridge Authority, chairman of Task Force and director, with a staff of consultants from state and local public works agencies.

### *XIII. Department of Commerce*

Regulatory Commissions: Robert H. Bowie and Owen D. Young, committee. Robert R. Bowie, project director, Harold Leventhal, executive officer. Trans-

<sup>34</sup> U.S. Congress, House, Committee on Government Operations, Summary of the Objectives, Operations, and Results of the Commissions on Organization of the Executive Branch of the Government. (First and Second Hoover Commissions). (Committee print) Washington, U.S. Govt. Print. Off., May, 1963, p. 3.



portation: The Brookings Institution, Charles Dearing, project director, Wilfred Owen, assistant project director.

#### *XIV. Department of Labor*

George W. Taylor, consultant, Public Welfare, The Brookings Institution. Research Directors: Lewis Meriam and Avery Leiserson. Committee: Robert R. Bowie and Owen D. Young. Departmental management: H. Struve Hensel and John S. Millett. Statistical Services: National Bureau of Economic Research. Directors: Frederick C. Mills and Clarence D. Long with an advisory committee.

#### *XV. Medical Activities*

Medical Services: Tracy S. Voorhees, chairman of Task Force, Howard M. Kline, project director, and specialist consultants. Welfare Activities: Dr. George W. Bachman and Lewis Meriam.

#### *XVI. Veterans' Affairs*

Franklin D'Olier, first national commander, American Legion, and former chairman, Prudential Life Insurance Company, chairman of Task Force. Valentine Howell, project director, and special consultants from the insurance and other industries and professions.

#### *XVII. Federal Business Enterprises*

Federal Business Enterprises and Revolving Funds: Major General Arthur H. Carter, project director, and Colonel Andrew Stewart, research director (Haskins and Sells, C.P.A.'s). Lending Agencies: Paul Grady and Theodore Herz (Price, Waterhouse & Co., C.P.A.'s), and an advisory committee.

#### *XVIII. Independent Regulatory Commissions*

(See report on Department of Commerce.)

#### *XIX. Social Security and Education*

Lewis Meriam, Hollis P. Allen, and Avery Leiserson.

#### *XX. Indian Affairs*

George Graham, professor of Political Science, Princeton University, chairman of Task Force.

#### *XXI. Federal State Relations*

Thomas Jefferson Collidge, chairman, United Fruit Company, and former Under Secretary of the Treasury, chairman of Task Force. Project undertaken by the Council of State Governments, Frank Bane, project director.<sup>35</sup>

The Hoover Commission had been directed by Congress, in the enactment of the Lodge-Brown Act (61 Stat. 246), to investigate the Executive Branch and to eventually make recommendations pursuant to the Congressional mandate of "promoting economy, efficiency, and improved public service."<sup>36</sup>

Five specific points in the Act outlined the directions to be taken by the Commission's study.

1. limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions;
2. eliminating duplication and overlapping of services, activities, and functions;
3. consolidating services, activities, and functions of a similar nature;
4. abolishing services, activities, and functions not necessary to the efficient conduct of government; and,
5. defining and limiting executive functions, services, and activities.<sup>37</sup>

In brief, it can be stated that the First Hoover Commission concerned itself with the structural reorganization of the executive branch and with interagency relations. As a result, its proposals were

<sup>35</sup> Emmerich, Herbert. *Federal Organization and Administrative Management*. Alabama. The University of Alabama Press, 1971. pp. 98-100.

<sup>36</sup> Public Law 162, 80th Congress.

<sup>37</sup> Public Law 162, 80th Cong.

aimed at removing the roadblocks to more effective organization and a reduction of expenditures.<sup>38</sup>

The philosophy and study approach used by the Commission is further described in the Commission's concluding report:

As a matter of principle the Commission has not been concerned with matters of substantive policy. In practice, however, it has often been extremely difficult to separate policy from administration, although a conscientious effort has been made to do so. The Commission focused its attention mainly on how efficiently present services were being performed, rather than on the question of whether they should or should not be performed.

There is perhaps no time in history when it has been more important to evaluate the effectiveness of the executive branch of the Government in carrying out the will of the Congress and the people. While we recognize that efficiency in itself is no guarantee of democratic government, the sobering fact remains that the highest aims and ideals of democracy can be thwarted through excess administrative costs and through waste, disunity, apathy, irresponsibility, and other byproducts of inefficient government.<sup>39</sup>

After 2 years of study, the First Hoover Commission submitted 273 recommendations to Congress. Most proposals were implemented in whole or in part by administrative or legislative means.<sup>40</sup>

The Commission terminated on June 12, 1949. Before 10 years had subsequently passed, over 72 percent of the Commission's proposals were acted on by Congress.<sup>41</sup> All of the 273 proposals cannot be listed here, but some of the more important recommendations follow:

1. The 65 agencies reporting directly to the President should be consolidated into about 20.
2. President's Council of Economic Advisers should be replaced by single advisor.
3. Supervisors should be rewarded for reducing number of employees.
4. Establish an Office of General Services.
5. Establish a nation-wide system of storehouses for items in common use in government agencies.
6. Post Office should be taken out of politics with Postmasters being selected by Department.
7. Whole concept of federal budget should be revised.
8. Secretary of Defense should be given strong authority over military services and their budgets.
9. Secretary of Commerce should be given authority over all major government transportation activities, except regulatory functions.
10. Transfer to Treasury the FDIC and the Export-Import Bank.
11. Regulatory commissions should be overhauled and salaries increased.
12. Labor Department should be given charge of Selective Service.
13. New Cabinet Department should be set up to coordinate government education and social security programs.
14. United Medical Administration should take over federal medical activities.
15. Government should get out of direct lending to persons or enterprises.
16. Establish an Office of Personnel, whose director should also be chairman of Civil Service Commission.

Over 196 of the 273 recommendations were eventually implemented through executive or legislative action. This record far surpasses all other results by other commissions on executive reorganization.

The following list contains some of the more important results thought to stem from the adoption of Commission proposals:

- a. Reorganization of Departments of State, Justice, Interior, Commerce, Labor Post Office and Treasury (mainly administrative).

<sup>38</sup> Second Hoover Commission. Final Report to Congress. June 1955, Washington, Govt. Print. Off. 1955, pp. 5-6.

<sup>39</sup> Ibid. pp. 2-3.

<sup>40</sup> Op. cit., Committee on Government Operations. (Committee Print) p. 6.

<sup>41</sup> Ibid.

- b. Reorganization of National Military Establishment into a Department of Defense.
- c. The Reorganization Act of 1949.
- d. Authorization for President to delegate certain functions.
- e. National Security Council and National Security Resources Board placed in the Executive Office of the President.
- f. Reorganization of Federal Trade Commission, Federal Power Commission, SEC and Civil Aeronautics Board.
- g. Creation of General Services Administration.
- h. The Budget and Accounting Procedures Act of 1950.
- i. A score of separate acts which made possible improved management, clear cut organizational structure, and greater efficiency for a dozen government agencies.

In addition to fine-tuning the government, the First Hoover Commission's recommendations were also credited for saving millions of dollars in Federal funds. Many of the estimates were approximate and little specific documentation was available from the Commission.<sup>42</sup> If all recommendations were adopted, the savings were supposed to have run as high as \$5 to \$7 billion.<sup>43</sup>

A task force chaired by John A. Stevenson, president of Penn Mutual Life Insurance, was appointed to handle personnel reorganization. The Commission subsequently recommended a decentralization of personnel functions to operating agencies under the control of the Civil Service Commission. The particular revisions proposed by the task force on personnel management are as follows:

1. The commission form of organization should be retained in the central personnel agency, but one commissioner should be vested with full responsibility for administrative direction.
2. The personnel administrator and chairman of the Civil Service Commission should be chosen by the President with regard for his capacity as an administrator.
3. The internal organization of the Civil Service Commission should be realigned to place greater emphasis upon standards, inspection, and information activities.
4. The operating divisions of the Civil Service Commission should be staffed in part by personnel drawn from the agencies.
5. A concrete plan for strengthening each agency's personnel organization and program should be developed under the leadership of the Civil Service Commission.
6. The agency director of personnel should be a member of top-management.
7. The primary responsibilities of the director of personnel in each agency should parallel those of the Civil Service Commission.
8. The primary responsibility of operating personnel offices should be to provide service and assistance to operating officials and line supervisors.
9. Field installations should be subject to a minimum of central control by bureau personnel offices.
10. In order to assure full participation of operating supervisors in personnel management, a definition of the responsibilities of personnel offices and line supervisors should be established by each agency head.
11. Agency personnel offices should not be burdened with the administration of activities not directly concerned with personnel management and services, but should collaborate in the general management-improvement activities of the agency.<sup>44</sup>

<sup>42</sup> Ibid., p. 7.

<sup>43</sup> U.S. Congress, Senate, Committee on Government Operations, Senate Action on Hoover Commission Reports. (Report) Washington, U.S. Govt. Print. Off. October 1952. pp. 92-94.

<sup>44</sup> Commission on Organization of Executive Branch. Task Force Report on Federal Personnel. Appendix A. (Report) Washington, U.S. Govt. Print. Off. Jan., 1949. p. 93.



PRESIDENT'S ADVISORY COMMISSION ON MANAGEMENT IMPROVEMENT  
(MORGAN COMMISSION) 1950-1952

The President's Advisory Commission on Management Improvement was established by President Truman in July of 1949 through Executive Order 10072. The panel focused on problems concerning the recruitment of capable managerial staff, their training, and their effective use.

Thomas A. Morgan, former chairman of the board for the Sperry Corp., was appointed chairman of the Commission by President Truman. The other members of the Commission came from backgrounds in business, government, and the universities. They included: Lawrence Appley, President, American Management Association; Vincent Burke, Deputy Postmaster General; Gordon Clapp, Chairman of the Board, TVA; Herbert Emmerich, Executive Director, Public Admin. Clearing House; James Killian, President, MIT; Edward Mason, Dean, Harvard Graduate School of Public Admin.; Clarence McCormick, Under Secretary of Agriculture; Otto Nelson, Vice President, New York Life Insurance Co.; Frank Pace, Secretary of the Army; C. R. Palmer, Former President, Cluett, Peabody & Co.; Marcellus Shield, Former Clerk, House Committee on Appropriations; and James Webb, Under Secretary of State.

The Bureau of the Budget provided most of the personnel for the Commission, and two of the Bureau's staff acted as executive secretaries for the panel.<sup>45</sup>

The method of operation followed by the Commission was not analytical, although a few special studies were made.<sup>46</sup> The Commission organized itself into various panels and held hearings. At these often informal sessions, representatives from Government agencies and departments made suggestions and generally discussed problems of management with the Commission. Often President Truman took part in these hearings and added to the discussions.<sup>47</sup>

In the concluding report of the Commission, five principal recommendations were made:

1. Management improvement work should continue to be centered in the Bureau of the Budget.
2. Continuous encouragement and unrelenting executive pressure should be maintained on administrators to carry out programs of management improvement within their own areas of responsibility.
3. Management staff facilities of the President and heads of departments and agencies should be strengthened.
4. The President and Congress should take steps to assure an adequate supply of competent administrators in the government.
5. The President should be given permanent reorganization authority.

The Commission finalized its work in 1952. However, its recommendations were of such a broad nature that they were difficult to implement by legislative means. The Commission study did result in encouraging the adoption of many of the first Hoover Commission's recommendations.<sup>48</sup>

<sup>45</sup> Emmerich, Herbert. *Federal Organization and Administrative Management*. Alabama. The University of Alabama Press, 1971. pp. 173-174.

<sup>46</sup> *Ibid.*, p. 174.

<sup>47</sup> *Ibid.*, p. 174.

<sup>48</sup> *Ibid.*, p. 174.

THE PRESIDENT'S ADVISORY COMMITTEE ON GOVERNMENT  
ORGANIZATION (1953-1960)

The President's Advisory Committee on Government Organization was perhaps the most productive and durable of any of the reorganization study bodies. Created by President Eisenhower through Executive Order 10432, the Committee was rumored, at least in part, to be the outgrowth of a Presidential objection to the creation of a second Hoover Commission. The Committee functioned during both of Eisenhower's terms of office and was not concluded until 1960.

The Committee consisted of four members. Nelson A. Rockefeller was appointed Chairman, until his resignation in 1958 to become Governor of New York. He was replaced by Ron K. Price, who at that time was dean of the graduate school of public administration at Harvard. The remaining two members were Arthur S. Flemming who served as Chairman from 1959-1960, and who was president of Ohio Wesleyan University and later Secretary of Health, Education, and Welfare. The last member was President Eisenhower's brother, Milton Eisenhower who was then president of Johns Hopkins University.

The method of operation of the Rockefeller Committee is best described in a passage taken from an exchange of letters between Mr. Rockefeller and the President on the occasion of the Chairman's resignation in 1958:

For the first three months after it was established the Committee was in almost daily session. During this time it had a major part in the development of the ten reorganization plans which were transmitted to Congress and became law in 1953.

In November 1953 following a summer recess, the Committee appointed a full-time staff director and a small staff. Since that time there have been 65 committee meetings, or an average of once a month. In addition, the Committee members have participated in frequent informal consultations. Throughout its existence the Committee has met with the President on many occasions and also has attended cabinet meetings when government organization items were on the agenda.<sup>40</sup>

The Committee recommended numerous changes in the organization and activities of the executive branch which would promote economy and efficiency, including:

1. Establishing a Council on Foreign Economic Policy.
2. Establishing a U.S. Information Agency.
3. Reorganizing the Department of Defense.
4. Establishing an Office of Defense Mobilization (ODM) in the EOP.
5. Reorganizing the Council of Economic Advisors.
6. Establishing the National Aeronautics and Space Agency (NASA).
7. Establishing an Office of Personnel Advisor to the President.
8. Establishing a Department of H.E.W.
9. Reorganizing the Departments of Agriculture and Justice.
10. Establishing a Career Executive Board.
11. Organizing the Federal Transportation Activities.
12. Establishing an Office of Executive Management.

The results achieved by the Committee were rather impressive; several major organizational changes can be contributed to the work of this Committee. Of the more important contributions, the list must include the establishment of the Department of Health, Education,

<sup>40</sup> Emmerich, Herbert. *Federal Organization and Administrative Management*. Alabama. The University of Alabama Press, 1971, p. 174.



April 1, 1953 (67 Stat. 18, 5 U.S.C. 623). Other contributions of no less significance include the following:

1. Reorganization of the Departments of Defense, Agriculture, Interior and Justice.
2. Establishment of the Federal Aviation Agency.
3. Establishment of an Office of Presidential Science Advisor and a President's Science Advisory Committee.
4. Establishment of NASA.
- and Welfare, created by Reorganization Plan No. 1 of 1953, approved
5. Extension of the Reorganization Act of 1949.
6. Establishment of the United States Information Agency.

### COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT, 1953-1955

The success of the First Hoover Commission and the inevitable need to periodically refine the Federal Government, brought about the creation of the Second Commission on the Executive Branch of the Government, or as it is commonly called, Hoover II.

The second Commission was similar in many ways to Hoover I. Each was headed by former President Hoover and each had 12 members. Both Commissions were created by a unanimous vote of both Houses of Congress and four members were each selected by the President, the President of the Senate, and the Speaker of the House of Representatives. Each of these named two men from private life and two from the public sector. In addition, five members who served on the first Commission also served on the second. This action was taken at the direction of Congress in order to add the benefit of experience to the new Commission.<sup>50</sup>

Although the Commissions were alike in several respects, they were also quite different in others. The obvious differences are found in their respective authorities and their approach to Government problems.<sup>51</sup>

The First Hoover Commission was established by Act of July 7, 1947 (61 Stat. 246) to study and investigate organizations and methods of operation of the executive branch and to recommend organizational changes to promote economy, efficiency, and improved services.

The Second Hoover Commission was established by the Act of July 10, 1953 (67 Stat. 142), for the same purposes, but with somewhat broader charter. The second Commission dealt with functional organization but also included in its authorization was authority to address itself to policy questions. This wider power to investigate the strength of policies of Government as well as the appropriateness of its structure constitutes a major difference between the two bodies.

In addition, the authority for Hoover II was further broadened (69 Stat. 64) by provisions in the act providing that the Commission propose in its final report "such constitutional amendments, legisla-

<sup>50</sup> U.S. Congress, Committee on Government Operations, Summary of the Objectives, Operations, and Results of the Commissions on Organization of the Executive Branch of the Government (First and Second Hoover Commissions), Washington, U.S. Govt. Print. Off., 1963, p. 9.

<sup>51</sup> MacNeill, Neil and Harold W. Metz, The Hoover Report 1953-1955, New York, The MacMillan Company (1956), p. 9.

tive enactments, and administrative actions as in its judgment are necessary to carry out its recommendations."

In the Senate hearings conducted prior to the passage of the Ferguson-Brown bill, Senator Ferguson noted this important difference, saying:

The most important difference between this bill and the first Commission statute is found in paragraphs 7 through 10 of section 1, the Declaration of Policy section. These paragraphs are intended to make certain that this Commission has full power to look into the activities of the Federal Government from the standpoint of policy and to inquire "Should the Federal Government be performing this activity or service and if so, to what extent?" This Commission must ask questions of this nature which the original Hoover Commission did not ask.<sup>52</sup>

In the House hearings, Representative Brown expressed the same point:

I learned, as a member of the original Hoover Commission—as did the other members of the Commission—that the greatest opportunities for savings in the conduct of the public business were to be found in the field of governmental functions and policies, rather than in the more straitjacketed field of operational procedure . . .

It is my thought that the new Commission, if created, would go into matters of Government functions and policies, and would recommend to the Congress how additional savings could be made by the proper adoption, elimination, or changing of Government functions and policies. In other words, the Commission would not only go into how we can get greater economy and efficiency in the actual operation of the executive branch of our Government but whether or not the Federal Government should engage in certain functions or follow certain policies—and if so, under what limitations and restrictions.<sup>53</sup>

The Second Hoover Commission was also directed by the Act "to promote economy, efficiency, and improved service in the public business" by:

1. Recommending methods and procedures for reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;
2. Eliminating duplication and overlapping of services, activities, and functions;
3. Consolidating services, activities, and functions of a similar nature;
4. Abolishing services, activities, and functions not necessary to the efficient conduct of government;
5. Eliminating nonessential services, functions, and activities which are competitive with private enterprise;
6. Defining responsibilities of officials; and
7. Relocating agencies now responsible directly to the President in departments or other agencies.

The membership of the Commission consisted of five carryovers from the First Hoover Commission. Former President Hoover, as mentioned earlier, was elected by the Commission to be its Chairman. Members who have served on the First Hoover Commission are noted with an asterisk in the following list:

1. Herbert Hoover,\* Chairman
2. Homer Ferguson, U.S. Senator from Michigan (resigned April 4, 1955). (Styles Bridges, U.S. Senator from New Hampshire, succeeded Senator Ferguson, April 4, 1955.)
3. Clarence J. Brown,\* Member of the House of Representatives from Ohio.
4. Herbert Brownell, Jr., Attorney General of the United States.

<sup>52</sup> MacNeil, *op. cit.*, p. 12.

<sup>53</sup> *Ibid.*

5. James A. Farley, business executive, former Postmaster General of the United States.

6. Arthur S. Flemming,\* Director, Office of Defense Mobilization.

7. Chet Holifield, Member of the House of Representatives from California.

8. Solomon C. Hollister, dean of College of Engineering, Cornell University.

9. Joseph P. Kennedy,\* financier, former Ambassador to Great Britain.

10. John L. McClellan, U.S. Senator from Arkansas.

11. Sidney A. Mitchell,\* investment banker, formerly executive director of first Hoover Commission, and official in the Departments of State and Navy.

12. Robert G. Storey, dean of the School of Law, Southern Methodist University.<sup>54</sup>

Hoover II organized itself into "task forces" to make the detailed investigation and to prepare findings and recommendations for the Commission. A complete listing of task force personnel is found later in this report.

The staff of the Commission consisted of 77 people, including 13 Commissioners' assistants; an Executive Director and his deputy; a 3-member office of the Executive Secretary; a 4-man office of legislative drafting; and a 46-member secretarial staff.<sup>55</sup>

As with the first Hoover Commission, the subject matter was organized in a manner consistent with the task force structure. Twenty-one task force groups including some subcommittees were set up to inquire into 17 functional areas of Government. The membership of these units included:

#### Budget and Accounting

Chairman: J. Harold Steward.

Members: Dudley E. Browne, H. E. Humphreys, Jr., Christian E. Jarchow, Gwilym Alexander Price, Kenneth C. Tiffany, J. David Wright.

Staff Director: Joseph M. Sullivan.

#### Intelligence Activities

Chairman: General Mark W. Clark.

Members: Richard L. Conolly, Ernest F. Hollings, Henry Kearns, Edward V. Rickenbacker, Donald S. Russell.

Staff Director: James G. Christiansen.

#### Legal Services and Procedure

Chairman: Henning W. Prentis, Jr.

Members: Herbert M. Clark, Cody Fowler, Albert J. Harno, James McCauley Landis, Carl McFarland, Ross L. Malone, Jr., David F. Maxwell, Harold R. Medina, David W. Peck, Reginald Heber Smith, E. Blyth Statson, Elbert Parr Tuttle, Edward Ledwidge Wright.

Special Consultants: Robert H. Jackson, George Roberts, Arthur T. Vanderbilt.

Staff Director: Whitney R. Harris.

Research Director: Courts Oulahan.

#### Overseas Economic Operations

Chairman: Henning W. Prentis, Jr.

Members: Harry A. Bullis, Frederick C. Crawford, Ferdinand Eberstadt, Arthur B. Foye, Ernest Kanzler, Julius Klein, Charles Sawyer, Joseph P. Spang, Jr.

Staff Director: Bernard S. Van Rensselaer.

<sup>54</sup> U.S. Congress, Committee on Government Operations, op. cit., p. 9.

<sup>55</sup> U.S. Congress, Commission on Organization of the Executive Branch of the Government (Second Hoover Commission), Final Report to the Congress, June 1955, Washington, U.S. Govt. Print. Off., 1955, pp. 5-6.



### Paperwork Management

Chairman: Emmett J. Leaby.

Members: Herbert E. Angel, Thomas F. Conroy, Edmund D. Dwyer, Berchel H. Harper.

Staff Director: Matson Holbrook.

### Use and Disposal of Surplus Property

Chairman: General Robert E. Wood.

Members: Harry Erlicher, Leroy D. Green, Thomas D. Jolly, Carl Kresl, James D. Mooney, George A. Renard, Edward Starr, Jr., Walter W. Tangeman.

Staff Director: Gerald S. Wise.

### Water Resources and Power

Chairman: Admiral Ben Moreell.

Members: Charles L. Andrews, William B. Bates, Pope F. Brock, Carey H. Brown, Charles Edison, James P. Growdon, Julian Hinds, Wesley W. Horner, John Jirgal, Edward A. Kracke, J. Bracken Lee, Albert Chester Mattei, Leslie A. Miller, Harry Winford Morrison, Lacey V. Murrow, Frank H. Newman, Jr., Malcolm Pirnie, Harry E. Polk, Roscoe Pound, John Wallace Reavis, Donald Randall Richberg, Arthur B. Roberts, Robert William Sawyer, William D. Shannon, Royce J. Tipton.

Staff Director: Charles D. Curran.

### Personnel and Civil Service

Chairman: Harold W. Dodds.

Members: Frank W. Abrams, Chester I. Barnard, Lewis B. Cuyler, Devereux C. Josephs, Don G. Mitchell, Willard S. Paul, Robert Ramspeck, William Hallam Tuck, Leonard D. White.

Staff Director: George A. Graham.

### Procurement

Chairman: Robert Wilson Wolcott.

Vice Chairmen: Ira Mosher and George P. F. Smith.

Members: Frank M. Folsom, William T. Golden, Horace Babcock Horton, Carl A. Ilgenfritz, Mervin J. Kelly, George Houk Mead, Frank H. Neely, Mundy I. Peale, Robert Proctor, George A. Renard, Franz Schneider, Charles J. Stilwell.

Staff Director: Valentine B. Deale.

### Real Property

Chairman: John R. Lotz.

Members: James M. Barker, William V. Burnell, John Anthony Hill, Thomas D. Joll, Glenn McHugh, William C. Mullendore, Benjamin H. Wooten.

Staff Director: Ben P., Gale.

### Subsistence Services

Chairman: Joseph P. Binns.

Members: Vallee O. Appel, Andrew J. Crotty, George H. Coppers, Howard B. Cunningham, James McBrayer Garvey, John L. Hennessy, Cligord E. Hicks, Ollie E. Jones, John H. Kraft, Herbert F. Krimendahl, Joseph A. Lee, John T. McCarthy, George M. Mardikian, Perry M. Shoemaker, Gordon A. Stouffer.

Staff Director: C. D. Bean.

### Subcommittee on Depot Utilization

Chairman: Clifford E. Hicks.

Members: Vallee O. Appel, Leroy D. Greene, Theodore G. Klumpp, Perry M. Shoemaker, George P. F. Smith.

Staff Director: Hulon O. Warlick, Jr.

### Committee on Business Organization of the Department of Defense

Chairman : Charles R. Hook.

Members : Joseph P. Binns, George C. Brainard, Howard Bruce, Michael DeBakey, Frank M. Folsom, Joseph B. Hall, Mervin J. Kelly, Arthur Franklin King, John R. Lotz, George Houk Mead, Frank H. Neely, Willard S. Paul, Thomas R. Reid, Reuben B. Robertson, Jr., Franz Schneider, Perry M. Shoemaker, Robert Wilson Wolcott, Robert E. Wood.

Liaison Assistant : Frank Upman, Jr.

### Subcommittee on Business Enterprises in the Department of Defense

Chairman : Joseph B. Hall.

Members : C. D. Bean, Leroy D. Greene, George P. F. Smith.

Assistant to the Chairman : Frank J. Andrews.

Staff Director : Bernard F. Zuccardy.

### Subcommittee on Research Activities in the Department of Defense

Chairman : Mervin J. Kelly.

Members : Frederick L. Hovde, Robert M. Kimball, C. Guy Suits, Clyde E. Williams.

Staff Director : G. Terrell Selby.

### Subcommittee on Special Personnel Problems in the Department of Defense

Chairman : Thomas R. Reid.

Members : Frederick G. Atkinson, Frederick J. Bell, George C. Brainard, Robert J. Smith, Samuel L. H. Burk, Raymond S. Livingstone, Willard S. Paul, Reuben B. Robertson, Jr.

Vice Chairman : John J. Corson.

Staff Director : Cecil E. Goode.

### Subcommittee on Transportation Activities in the Department of Defense

Chairman : Perry M. Shoemaker.

Consultant : Selig Altschul, Alvin Shapiro, Clifford E. Hicks.

Director of Passenger Study : James K. Knudson.

Director of Freight Study : John B. Keeler.

Acting Director of Freight Study : John R. Staley.

In all, close to two hundred persons served on the Commission's task forces and subcommittees. Each task force was assigned a subject area and each was given autonomy in conducting their research.<sup>56</sup>

Each task force wrote a report containing its recommendations and submitted its findings to the Commission. The 20 reports submitted by the task forces were reviewed by three members of the full Commission and their report and recommendations were again reviewed by the whole Commission. Recommendations were accepted by majority vote of the Commission and these recommendations were later themselves submitted to Congress.<sup>57</sup>

After completing 2 years of study, utilizing \$2,768,562 of a \$2,848,534 appropriation, the Second Hoover Commission offered 314 recommendations for improving Government services.

With respect to success in adoption of its recommendations, the record of Hoover II was almost as successful as it had been for Hoover I. More than half of the proposals were adopted by administrative or legislative means.<sup>58</sup>

<sup>56</sup> MacNeill, *op. cit.*, p. 19.

<sup>57</sup> U.S. Congress, Committee on Government Operations, *op. cit.*, p. 13.

<sup>58</sup> *Ibid.*, p. 14.



Some of the more important recommendations include the following:

A. Consider termination of government operations in competition with private enterprise. (Committee recommended liquidation of over 1000 "business enterprises" in the Department of defense.)

B. Provided for a Federal Advisory Council of Health in EOP.

C. Establish a National Library of Medicine and reorganize Public Housing Administration and Small Business Administration.

D. Provide for improved accounting methods in Executive Branch.

E. Reorganize Department of Defense. (Two-thirds of Commission's Report apply to Department of Defense.)

F. Establish a senior civil service (top career and non-career positions).

G. Instruct Secretary of Treasury to impose on certain agencies competing with private enterprise rates of interest equal to going rate paid by Treasury.

H. Suggest Congress study and revise National Transportation Policy.

I. Establish an Administrative Court with three subdivisions—tax, trade and labor.

J. Expand and make more effective managerial and budgeting functions of the Bureau of the Budget.

K. Create a Water Resources Board.

### Recommendations adopted:

A. Extended revision of the accounting procedures of the Executive Department.

B. Liquidated Postal Savings System and Reconstruction Finance Co.

C. Attempted to close many of Department of Defense "Business Enterprises" but blocked by Department of Defense Appropriation Act of 1956. Some success achieved in DOD's minor operations.

D. Replaced many government armed tankers with more modern privately owned ships.

E. Established Assistant Secretary for Legal Affairs to integrate legal staff of agencies.

F. Established requirement for Executive Agencies to report annually to the Bureau of the Budget on their operations using cost based operating budgets.

G. Established a government-wide paperwork management program.

H. Incorporated Small Business Administration under Government Corporation Control Act.

I. Extension of the Reorganization Act of 1949 from April 1, 1955, to June 1, 1957. (Public Law 16, 84th Cong., 69 Stat. 14.)

J. Extension and clarification of the laws relating to the provision and improvement of housing, the elimination and prevention of slums, the conservation and development of urban communities, the financing of vitally needed public works, et cetera, including making the Home Loan Bank Board an independent agency. (Housing Amendments of 1955, Public Law 345, 84th Cong., 69 Stat. 635.)

K. Legislation to improve the health of the people by assisting in increasing the number of adequately trained professional and practical nurses and professional public health personnel and by assisting in the development of improved methods of care and treatment in the field of mental health. (Health Amendments Act of 1956, Public Law 911, 84th Cong., 70 Stat. 923.)

L. Promotion of the progress of medicine and advancement of national health and welfare by creating a National Library of Medicine in the Public Health Service. (Public Law 941, 84th Cong., 70 Stat. 960.)

M. Provisions for compulsory inspection by the U.S. Department of Agriculture of poultry and poultry products. (Public Law 85-172, 71 Stat. 441.)

N. Provisions for facilitating payment of Government checks and issuance of substitutes for such checks which have been lost, stolen, destroyed, or mutilated. (Public Law 85-183, 71 Stat. 464.)

O. Promoting the national defense by providing for reorganization of the Department of Defense. (Public Law 85-599, 72 Stat. 514.)

P. Codification of veterans' laws by consolidating into one act all of the laws administered by the Veterans' Administration. (Public Law 85-857, title 38, U.S. Code, "Veterans' Benefits.")

Q. Authorization for the Tennessee Valley Authority to issue and sell bonds and notes to assist in financing its power program. (Public Law 86-157, 73 Stat. 338.)

R. Establishment of a career executive program within the civil service system. (Executive Orders 10724, 10758, and 10777; 3 CFR, 1954-58 Comp., pp. 385, 407, 420.)

Also, since 1954, 16 reorganization plans have been transmitted to Congress by the President and have been permitted to go into effect. Five of these 16 plans were based on specific recommendations of the First or Second Hoover Commissions. Two of these five recommendations were permitted to go into effect and one (Reorganization Plan No. 1 of 1958) came into force through an act of Congress, after having been amended by the Legislature. Furthermore, some of the remaining 11 plans incorporated provisions which correspond to general recommendations of the First Hoover Commission regarding regulatory commissions. For instance, the Commission offered the recommendation that administrative responsibility should be vested in the chairman of the regulatory commission.<sup>59</sup>

In his book, "Federal Organization and Administrative Management," Herbert Emmerich refers to the Second Hoover Commission task force report on personnel and civil service as "probably the most distinguished report" submitted to the Commission.

Chairman Hoover himself considered the Report on Personnel and Civil Service as being "nearest to my heart," and later when asked by a reporter which of the 314 recommendations he considered most important Mr. Hoover replied, "I would pick the recommendation for the setting up of a senior civil service. Government," he went on to explain, "cannot be any better than the men and women who make it function."<sup>60</sup>

The proposals of the Personnel Report had three objectives. The public service was to be made more responsible to the voters, to be made more efficient by promoting the establishment of a senior civil service and management training at lower levels, and to improve general employment practices for all employees.

The report directed itself to many areas of concern and focused a great deal of attention to the problems of top level executives. Specifically calling for the establishment of a senior civil service with a separation of functions between noncareer and career personnel, the report promoted the recruitment of better quality management personnel through recommendations for higher pay levels, increased fringe benefits, and more support staff for management level executives.<sup>61</sup>

Another important area of concern was simplification of the classification system in operation. According to the report, the personnel classification system was overly elaborate, with 18 grades under the General Schedule of the Classification Act, 92 pay schedules under the Postal Pay Act, and 34 grades under the Army Air Force Wage Board System.

<sup>59</sup> See H. Rept. No. 195, 87th Cong., table on pp. 4-5 and Final Calendar of the Committee on Government Operations, House of Representatives, for the 87th Cong., pp. 56-57. See also S. Rept. no. 95, 85th Cong., p. 61; S. Rept. no. 128, 85th Cong., p. 54; S. Rept. No. 122, 86th Cong., p. 12; H. Doc. No. 186, 87th Cong., p. 1.

<sup>60</sup> MacNeill, op. cit., pp. 29 and 47.

<sup>61</sup> U.S. Congress, Commission on Organization of the Executive Branch of the Government, 953-55. (Report). Washington, U.S. Govt. Print. Off., February 1955. [Personnel and Civil Service.]



The report recommended that Grades GS 1-6 should be combined into three grades. Grades GS-15 and above would not be changed according to the report, however they would be absorbed into the senior civil service with its pay schedules based on personal rank status.<sup>62</sup>

Several recommendations were made relating to the operation of the Civil Service Commission. In brief, these recommendations were as follows:

1. Expand its research activities as a basis for developing improved basic standards and guidelines under which the Commission delegates its authority to departments and agencies and provides assistance to them;

2. Continue to expand the delegation of operating functions (subject to its standards) to the departments and agencies;

3. Emphasize vigorous, realistic, and reasonably frequent inspections in order to assure compliance with the principles of the civil service laws and regulations, and the standards established by the Commission under which it makes delegations of authority to the departments and agencies. Such inspections should insure strict adherence to all statutory provisions for veterans' preference and maintenance of the merit principle in Federal employment. The Commission should be authorized to charge the costs of repossessed functions to the agencies from which they are temporarily recovered.<sup>63</sup>

The principal recommendation, that of establishing a career executive program within the civil service system, was established through Executive Orders 10724, 10758, and 10777, issued between 1954 and 1958.<sup>64</sup> Another important outcome was the passage, in 1958, of the Employees Training Act which insured that each Department foster its own training and development program for its personnel.<sup>65</sup>

All but a few of the task forces' reports made estimates of potential savings that might be incurred if all of their proposals were adopted. These figures were largely projective and in many cases incapable of empirical verification.<sup>66</sup>

The initial report of the Second Hoover Commission contained a chapter entitled, "Possible Savings in Federal Expenditures." Only 13 task force reports listed a projected savings. This projection reaches a figure of \$8.5 billion.<sup>67</sup> The figures for the annual savings estimate of each task force as follows:

	<i>Thousands</i>
Budget and Accounting-----	\$4, 000, 000
Depot Utilization-----	253, 000
Federal Medical Services-----	290, 000
Lending, Guaranteeing, and Insurance-----	200, 000
Overseas Economic Operations-----	360, 000
Paperwork Management—Part I-----	255, 000
Paperwork Management—Part II-----	33, 300
Personnel and Civil Service-----	48, 500
Real Property Management-----	185, 000
Special Personnel Problems—DOD-----	388, 800
Subsistence (Food and Clothing)-----	400, 000
Transportation-----	151, 500
Use and Disposal of Fed. Surplus Prop-----	<sup>1</sup> 2, 000, 000

<sup>1</sup> For the first 4 years; thereafter \$1,000,000,000 per annum.

While the following task force reports made no estimates of cost savings, they did indicate a savings was assured: Business Enterprises,

<sup>62</sup> Ibid., pp. 54-56.

<sup>63</sup> Ibid., p. 84.

<sup>64</sup> U.S. Congress. Committee on Government Operations, op. cit., p. 16.

<sup>65</sup> Emmerich, Herbert. Federal Organization and Administrative Management. Alabama, The University of Alabama Press, 1971, p. 121.

<sup>66</sup> U.S. Congress. Committee on Government Operations, op. cit., pp. 16-17.

<sup>67</sup> Second Hoover Commission. Final Report to the Congress, op. cit., pp. 19-20.

Business Organization of the Department of Defense, Intelligence Activities, Military Procurement, and Water Resources and Power.

PRESIDENT'S ADVISORY COUNCIL ON EXECUTIVE ORGANIZATION, 1969-71  
(ASH COUNCIL)

The President's Advisory Council on Executive Organizations, or the "Ash Council" was appointed by President Nixon on April 5, 1969. The mandate given the Council was to consider the following: (1) a thorough review of organization of the executive branch, as a whole in light of today's changing requirements of government; (2) solutions to organizational problems which arise from among the 150-plus department, offices, agencies, and other separate executive organizational units; and (3) organizational relationships of the Federal Government to States and cities in carrying out the many domestic programs in which the Federal Government is involved.<sup>68</sup>

President Nixon, who personally provided much of the impetus for the Council, was under the opinion that the administrative problems within Government derived from executive branch structure. In the Message to Congress of March 25, 1971, he stated:

The problem with government is not, by and large, the people in government. It is a popular thing, to be sure, for the public to blame elected officials and for elected officials to blame appointed officials when government fails to perform. There are times when such criticism is clearly justified. But after a quarter century of observing government from a variety of vantage points, I have concluded that the people who work in government are more often the victims than the villains when government breaks down. Their spirit has usually been willing. It is the structure that has been weak.

The President's Advisory Council concerned itself largely with departmental reorganization. Principally, the President and his Council wished to organize Government to fit broad policy goals. In the President's Message to Congress he explained this philosophy.

The key to that new understanding is the concept that the executive branch of the government should be organized around basic goals. Instead of grouping activities by narrow subjects or by limited constituencies, we should organize them around the great purposes of government in modern society. For only when a department is set up to achieve a given set of purposes, can we effectively hold that department accountable for achieving them. Only when the responsibility for realizing basic objectives is clearly focused in a specific governmental unit, can we reasonably hope that those objectives will be realized.

When government is organized by goals, then we can fairly expect that it will pay more attention to results and less attention to procedures. Then the success of government will at least be clearly linked to the things that happen in society rather than the things that happen in government.

Under the proposals which I am submitting, those in the Federal Government who deal with common or closely related problems would work together in the same organizational framework. Each department would be given a mission broad enough so that it could set comprehensive policy directions and resolve internally the policy conflicts which are most likely to arise. The responsibilities of each department would be defined in a way that minimizes parochialism and enables the President and the Congress to hold specific officials responsible for the achievement of specific goals.

The Ash Council was chaired by Roy L. Ash, then president of Litton Industries. The remaining five members all came from either public or private enterprise backgrounds. The members were George

<sup>68</sup> President's Advisory Council on Executive Organization. Memoranda for the President of the United States: Establishment of a Department of Natural Resources (and) Organization for Social and Economic Programs. Washington, U.S. Govt. Print. Off. 1970.



P. Balser, trustee, Penn Central Railroad Corp.; John B. Connally, Secretary of the Treasury, and former Governor of Texas; Frederick R. Kappel, former chairman, American Telephone & Telegraph Co.; Richard M. Paget, president, Cresap, McCormick, & Paget, Inc.; and, Walter N. Thayer, president, Whitney Communications Corp.

The methodology used by the Council included personal interviews, staff research conducted on the strengths and weaknesses of departmental structure, an examination of the studies of prior committees and task forces. This material was sifted through and eventually recommendations were made and submitted to the President. Most of the reports and recommendations were not made public.

The proposals presented to Congress by President Nixon called for the restructuring of the Executive Departments into four new departments in which existing responsibilities would be refocused. The new Departments would be—the Department of Natural Resources, a Department of Human Resources, a Department of Community Development, and a Department of Economic Affairs.

The plans to restructure the Executive Departments ultimately died in committee. Other proposals to establish a Office of Management and Budget and to form the Domestic Council were adopted in Reorganization Plan No. 2, approved in May of 1970.

Proposals to reorganize regulatory agencies were also made public but none of those recommendations were activated. The important changes proposed for regulatory agencies consisted of:

1. Consolidating the regulatory activities of transportation, power, securities, and consumer protection into agencies designated: Transportation Regulatory Agency, Federal Power Agency, Securities and Exchange Agency, and Federal Trade Practices Agency.
2. The above mentioned new agencies would also have a single administrator rather than the present multiple member commission.<sup>69</sup>

There were four reorganization bills introduced on behalf of President Nixon, one bill for each proposed super-department. Hearings were held and controversies soon developed. The central aim of the proposals had always been to structure Government to better serve national, broad range policy goals and to avoid providing specialized service for specific clientele. Farm interests feared the termination of the Agriculture Department, transportation groups and State highway agencies felt challenged by the proposal of a unified Department of Transportation. Even Congress and its committee structures and jurisdictions were effected by the proposals.<sup>70</sup>

The Ash Council was dissolved on May 7, 1971, and its recommendations subsequently languished. The failure of the inclusion of outside interest groups in formulation of the reorganization proposals and resistance to substantial change in departmental structure contributed to the failure of most of the Council's proposals.

#### COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY (1972-1973). ESTABLISHED BY CONGRESS ON JULY 13, 1972 (PUBLIC LAW 92-352)

The Commission on the Organization of the Government for the Conduct of Foreign Policy was to "submit findings and recommenda-

<sup>69</sup> Roback, Herbert. *The Congress and Super Departments*. The Bureaucrat, V.1, no. 1, Spring 1972, p. 37.

<sup>70</sup> Ibid.



tions to provide a more effective system for the formulating and implementation of the Nation's foreign policy."<sup>71</sup> The Commission was directed by statute to submit recommendations in the following areas:

1. The reorganization of departments, agencies, independent establishments, and instrumentalities of the executive branch participating in foreign policy matters.
2. More effective arrangements between the executive branch and Congress, which will better enable each to carry out its constitutional responsibilities.
3. The abolition of unnecessary activities and functions.
4. Improved procedures among those departments and agencies.
5. Other measures as may serve "to promote peace, economy, efficiency and improved administration of foreign policy."<sup>72</sup>

To aid the Commission in preparing this study, Congress, in the authorizing legislation, provided the power to hold hearings and take testimony and to issue subpoenas to retrieve needed information.

The President, the Senate, and the House each chose 4 members of the 12-man Commission. A listing of members appointed to the Commission along with their professional positions follows:

Robert D. Murphy, Chairman—Honorary Chairman, Corning Glass International.

James B. Pearson, Vice Chairman—United States Senate.

David M. Abshire, Chairman, Center of Strategic and International Studies, Georgetown University.

Anne Armstrong, Counsel to the President, The White House.

William J. Casey, President and Chairman, Export-Import Bank of U.S.

Mrs. Charles E. Engelhard, Jr., The Engelhard Company.

Arend D. Lubbers, President, Grand Valley State College, Allendale, Michigan.

William S. Mailliard, U.S. House of Representatives.

Frank C. P. McGlinn, Executive Vice President, Fidelity Bank, Philadelphia, Pa.

Mike Mansfield, U.S. Senate.

Stanley P. Wagner, President, East Central University, Ada, Oklahoma.

Clement J. Zablocki, U.S. House of Representatives.

William S. Broomfield, U.S. House of Representatives.

Peter H. B. Frelinghuysen, U.S. House of Representatives.

Nelson A. Rockefeller, The Vice President.

The Commission functioned for 2 years, utilizing around \$3 million to complete its studies. Much of the work was performed by its 25 staff members, although some special work was completed by outside consultants.

The mode of operation for the Commission consisted of reviewing previous studies; public hearings in major cities to enable interested citizens and representatives of various groups to make comment; a major survey of Members of Congress; and solicited comments from some 50 departments and agencies as well as 250 overseas posts and missions.<sup>73</sup>

In all, the Commission produced a summary volume and seven appendix volumes.

<sup>71</sup> Public Law 92-352 H.R. 14733, July 13, 1972.

<sup>72</sup> Ibid.

<sup>73</sup> U.S. Commission on the Organization of the Government for the Conduct of Foreign Policy, Washington, U.S. Govt. Print. Off. June 1975, p. x.

The Commission made recommendations in all areas of foreign relations. One principle recommendation was that a Cabinet level official not serve concurrently as both Secretary of State and Presidential Advisor for National Security. The Commission also recommended that the Department of State and the National Security Council must play a larger role in the areas of international economic and political military questions. The Commission further called for the establishment of a new joint committee on National Security to oversee intelligence-related matters and issues deriving from the War Powers Act.<sup>74</sup>

The Commission was criticized for its vagueness and indecisiveness in recommending any substantial changes in the conduct of the foreign policy establishment.<sup>75</sup>

Sen. Mike Mansfield described the report as follows: "The entire thrust of the Commission's report," he wrote, "goes toward enshrining the pre-eminences of the executive branch in the conduct of foreign policy. This appears to reflect a belief that the inflated role of the Presidency should not only be continued but bolstered."<sup>76</sup>

No substantive action has been taken to date to implement the changes recommended by this Commission.

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<sup>74</sup> Ibid.

<sup>75</sup> Gelb, Leslie H. Study suggests U.S. Divides Kissinger Roles in Future. New York Times, June 29, 1975.

<sup>76</sup> Ibid.

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